HR 16373

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H. Res. 1468, providing for the consideration of H.R. 17234, Foreign Assistance Act of 1974 (H. Rept. 93–1486);

H. Res. 1469, waiving certain points of order against H.R. 17468, making appropriations for military construction for fiscal year 1975 (H. Rept. 93–1487); and

H. Res. 1470, waiving certain points of order against the conference report on S. 386, Urban Mass Transportation Act (H. Rept. 93–1488). Page H 10921

Tennessee Valley Authority Pollution Control Facilities: House disagreed to the amendment of the Senate to H.R. 11929, to amend section 15d of the Tennessee Valley Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; and asked a conference with the Senate. Appointed as conferees: Representatives Jones of Alabama, Kluczynski, Johnson of California, Harsha, and Baker. Page H 10856

Presidential Veto—Rehabilitation: By a yea-and-nay vote of 398 yeas to 7 nays (two-thirds of those present voting in the affirmative), the House overrode the President's veto of H.R. 14225, Rehabilitation Act and Randolph Sheppard Act Amendments of 1974. Pages H 10856–H 10864

Bill Re-referred: Committee on Merchant Marine and Fisheries was discharged from further consideration of S. 2149, to provide benefits to members of the Coast Guard Reserve. Subsequently, the bill was re-referred to the Committee on Armed Services. Page H 10864

Presidential Veto—Freedom of Information: By a yea-and-nay vote of 371 yeas to 31 nays (two-thirds of those present voting in the affirmative), the House overrode the President's veto of H.R. 12471, Freedom of Information Act. Pages H 10864–H 10875

Presidential Vetoes—Private Bills: By a yea-and-nay vote of 236 yeas to 163 nays (two-thirds of those present not voting in the affirmative), the House sustained the President's veto of H.R. 6624, a private bill. This bill and the President's veto message of another private bill, H.R. 7768, were then referred to the Committee on the Judiciary. Pages H 10875–H 10878

D.C. Educational Personnel: House concurred with amendments in the Senate amendment to the text of H.R. 342, to authorize the District of Columbia to enter into the interstate agreement on qualification of educational personnel. House concurred in the Senate amendment to the title of the bill; and returned the measure to the Senate. Pages H 10878–H 10882

Late Report: Committee on the District of Columbia received permission to file a report by midnight tonight on H.R. 17450, to provide a people's counsel for the Public Service Commission of the District of Columbia. Page H 10882

Export-Import Bank: By a voice vote, the House agreed to the conference report on H.R. 15977, to amend the Export-Import Bank Act of 1945; clearing the measure for Senate action. Pages H 10882–H 10884

Late Reports: Committee on Rules received permission to file certain privileged reports by midnight tonight. Page H 10884

Privacy: House considered H.R. 16373, to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, but came to no resolution thereon. Proceedings under the 5-minute rule will continue tomorrow.

Took the following action in the Committee of the Whole:

Agreed to the following amendments to the committee amendment:

An amendment that subjects the Agency determination to public scrutiny by providing 30 days for interested parties to submit to the Agency after publication in the Federal Register written data, views, or arguments as to its interpretation of "Routine Purpose";

An amendment that provides if the head of an agency utilizes the authority under subsection (j) to exempt a system of records from this law, such action shall not exempt the agency from safeguards to the public against abuse of such exemption authority as provided in subsection (i); and

An amendment that exempts investigatory material compiled solely for Federal employment, testing or examination material used for appointment, employment, or promotion in the Federal service, and evaluation material used for promotion in the armed services (agreed to by a recorded vote of 192 ayes to 177 noes).

Rejected an amendment that sought to allow court assessment of punitive damages.

H. Res. 1419, the rule under which the bill was considered, was agreed to earlier by a voice vote. Pages H 10884–H 10902

Referral: One Senate-passed measure was referred to the appropriate House committee. Page H 10920

Quorum Calls—Votes: Two quorum calls, three yea-and-nay votes, and one recorded vote developed during the proceedings of the House today and appear on pages H10856, H10863, H10875, H10877, H10898, and H10899–H10900.

Program for Thursday: Met at noon and adjourned at 6:28 p.m. until noon on Thursday, November 21, when the House will continue consideration of H.R. 16373, Privacy Act; and consider H. Res. 1387, place for amendments in Congressional Record; and S.J. Res. 40, White House Conference on Libraries (open rule, 1 hour of debate).

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sylvania; and Cushing Dolbeare, National Rural Housing Coalition, Washington, D.C.

Hearings continue tomorrow.

REGULATORY REFORM

Committee on Commerce: Committee continued hearings on S.J. Res. 253, to establish a national commission to study and report on the impact of the independent regulatory agencies upon commerce, receiving testimony from Helen Delich Bentley, Chairman, Federal Maritime Commission; Lewis A. Engman, Chairman, Federal Trade Commission; John N. Nassikas, Chairman, Federal Power Commission; Richard Simpson, Chairman, Consumer Product Safety Commission; George M. Stafford, Chairman, Interstate Commerce Commission; Robert D. Timm, Chairman, Civil Aeronautics Board; and Richard E. Wiley, Chairman, Federal Communications Commission.

Hearings continue tomorrow.

TRADE REFORM

Committee on Finance: Committee, in executive session, ordered favorably reported with amendments H.R. 10710, to stimulate U.S. economic growth and promote economic relations with foreign countries, with the understanding that the bill will not be taken up on the floor of the Senate until Secretary of State Henry A. Kissinger appears before the committee to answer questions concerning this matter.

NOMINATION

Committee on Government Operations: Committee concluded hearings on the nomination of Paul H. O'Neill, of Virginia, to be Deputy Director of the Office of Management and Budget, after the nominee testified and answered questions on his own behalf.

STATE LOTTERIES

Committee on the Judiciary: Subcommittee on Criminal Laws and Procedures held hearings on bills relative to dissemination of information concerning lawful State lotteries (S. 544, 547, 1186 and 3524), receiving testimony from William B. Saxbe, Attorney General of the United States; Francis Burch, Attorney General of the State of Maryland, and numerous representatives of State lottery commissions.

Hearings were recessed, subject to call.

MARIHUANA RESEARCH AND LEGAL CONTROLS

Committee on Labor and Public Welfare: Subcommittee on Alcoholism and Narcotics continued hearings to determine the current status of research on and to explore the scientific and legal issues concerning marihuana, receiving testimony from Michael R. Sonnenreich, Washington, D.C.; R. Keith Stroup, National Organization for the Reform of Marihuana Laws, Washington, D.C.; J. Pat Horton, Lane County District Attorney, Eugene, Oreg.; Prof. Richard J. Bonnie, University of Virginia Law School; and Lt. Joseph J. Delaney, representing the New Jersey Narcotic Enforcement Officers Association.

Hearings continue on Tuesday, November 26.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT PROGRAMS

Committee on Public Works: Subcommittee on Economic Development concluded hearings on S. 4115, proposing increases in authorizations for public works and economic development programs for fiscal years 1975 and 1976, after receiving testimony from William L. Blunt, Jr., Assistant Secretary for Economic Development, accompanied by Rick Michaels, Acting Chief Counsel, Economic Development Administration, both of Department of Commerce; Dr. Weldon Barton, National Farmers Union; Andrew Bennett, representing the Council for Urban Economic Development; and William E. Towell, American Forestry Association, all of Washington, D.C.

COMMITTEE BUSINESS

Committee on Rules and Administration: Committee, in executive session, ordered favorably reported the following measures:

S. Res. 428, requesting an additional $51,000 for expenses of Committee on Public Works; and

An original resolution (S. Res. 435) requesting an additional $30,000 for expenses of Committee on Rules and Administration.

Also, committee continued consideration of the nomination of Nelson A. Rockefeller, of New York, to be Vice President of the United States, but did not conclude action thereon, and will meet again on Friday, November 22.

House of Representatives

Chamber Action

Bills Introduced: 16 public bills, H.R. 17469–17486; 1 private bill, H.R. 17487; and 6 resolutions, H. Con. Res. 685, and H. Res. 1466–1470 were introduced.

Pages H 10921–H 10922

Bills Reported: Reports were filed as follows:

H.R. 17450, to provide a people's counsel for the Public Service Commission of the District of Columbia, amended (H. Rept. 93–1485);

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persists in helping foreign state airlines buy aircraft at low interest rates.

During the debate on the Export-Import Bank extension legislation this summer, I was particularly offended by the extraordinary degree of lobbying conducted by the Bank. It was obvious that a number of Bank officials had been assigned to the task of lobbying individual Members. It is probable that the expense involved in this lobbying ran into the tens of thousands of dollars.

I am well aware that when an agency's bill is being considered by the Congress, representatives of that agency are "available" to help answer questions, provide information, and generally "puff" the merits of their agency. These civil servants may even sit in the galleries during the debate to "watch" how things are going.

But the lobbying carried on by the Eximbank far exceeded this.

I believe that officials of the Bank may have violated the Criminal Code, title 18, section 1913, prohibiting unsolicited legislative lobbying by Government officials.

As a result, on September 13, I requested a General Accounting Office investigation of the Bank's lobbying activities. The GAO's report is not yet available—largely because the Bank has not been zealously responsive to the GAO. I find this delay most objectionable. I believe it may be part of the Bank's continuing effort to avoid "bad publicity" prior to the passage of the conference report before the House today. I was not going to comment on this matter until the GAO report was available—but I think that the Members should know that there are serious questions involving activities of members of the Bank's staff.

I believe that the General Accounting Office report will certainly lead to legislative recommendations and data which I am sure will be of interest to the Appropriations Committees.

Following is a copy of my letter to the General Accounting Office:

SEPTEMBER 13, 1974.

Hon. ELMER B. STAATS,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: In reviewing the events surrounding the passage by the House of Representatives of H.R. 15977, the Export-Import Bank Act of 1945, I believe that there have been violations of Title 18 of the United States Code, section 1913, relating to legislative lobbying by government officials.

I would like to request the General Accounting Office to determine whether there has been a violation of 18 USC 1913 by any officials of the Export-Import Bank. If so, I request that the GAO transmit its findings to the Department of Justice so the appropriate fines, sentences, and job terminations may be affected.

In investigating this matter, I would hope that the GAO could provide answers to the following questions:

1) Does the Export-Import Bank fall under the coverage of 18 U.S.C. 1913? While the Bank is outside of the Budget, its expenditures and authorization are controlled by the Congress and it would certainly be my feeling that the section applies to the Bank.

2) How many Bank employees were assigned to work on the passage of the Bank's authorizing legislation? How many man-hours were devoted to this lobbying effort? Who is it liable for this decision?

3) How many unsolicited telephone calls were made to offices of Members of Congress? Even though I had long made clear my opposition to many features of the Export-Import legislation, my office received three unsolicited telephone calls from individuals identifying themselves as representatives of the Export-Import Bank. I regret that my staff people who took the calls did not register the names of the persons calling. The first call was approximately two weeks before the vote. The caller assured my staff person that if I had any questions or concerns about the legislation, the Bank would be happy to answer my questions or provide information. The second call was of a similar nature. The third call informed my secretary that the Export-Import Bank bill was coming up on the floor of the House. The caller "wondered" if I was on the floor, and if not, expressed the hope that I would be able to attend the floor debate.

4) What written communications were made by the Bank to Members of Congress? Prior to debate, I received an unsolicited letter from the Bank listing all the loans which had been made in recent years to companies in my Congressional District. Was this done for all Members? If so, at what cost? Was this a regular mailing? Was it not timed to coincide with the House debate?

5) Did any one at the Bank contact major American exporting companies, or lobby groups requesting that they write to Members of Congress in support of the Bank? Prior to the vote, a number of major American companies wrote to my office urging the support of the legislation.

6) What Bank officials came to the House to lobby for passage? During the debate on the bill, I walked out the East Door of the House. I observed a man who was identified to me as Chief Counsel of the Bank and two staff aides were present and calling Members off the floor. Was their aid and assistance solicited or unsolicited?

7) In sum, how much money was spent on this lobbying effort?

Thank you for your assistance in this inquiry.

Sincerely yours,

CHARLES A. VANIK,
Member of Congress.

Mr. MINISH. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. DELANEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PRIVACY ACT OF 1974

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1419 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 1419

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16373) to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 30 minutes to the minority, to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

(Mr. MURPHY of Illinois asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of Illinois. Mr. Speaker, House Resolution 1419 provides for an open rule with 1 hour of general debate on H.R. 16373, the Privacy Act of 1974.

House Resolution 1419 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

H.R. 16373 permits an individual to have access to records containing personal information on him kept by Federal agencies for purposes of inspection, copying, supplementation and correction, with certain exceptions, including law enforcement and national security records.

H.R. 16373 also allows an individual to control the transfer of personal information about him from one Federal agency to another for nonroutine purposes by requiring his prior written consent.

H.R. 16373 also provides a civil remedy

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each loan involving energy-related products and services and a statement assessing the impact of each such loan on the availability of such products, services, or energy supplies for use in the United States.

Finally, I believe I should point out that this legislation specifies that until such time as the Trade Reform Act is approved by the Congress and signed into law by the President, no loan, guarantee, insurance, or credit shall be extended by the Bank to the Soviet Union.

Mr. Speaker, I urge adoption of the conference report.

Mr. WIDNALL. Mr. Speaker, I rise in support of H.R. 15977.

(Mr. WIDNALL asked and was given permission to revise and extend his remarks.)

Mr. WIDNALL. Mr. Speaker, had I not been one of the conferees on the Export-Import Bank Amendments of 1974, I would feel free to be much more laudatory of the shrewd bargaining and cohesive effort of the House conferees on this bill. In any case, I am pleased to observe that the conference report before this body represents a successful legislative effort in extending the authority of the Export-Import Bank with a well-rounded legislative directive in carrying out the Bank's functions.

I think it is important to note also that the conference report on Ex-Im Bank should be viewed in conjunction with Export Administration Act amendments. Both are, of course, concerned with our national security and foreign policy as well as with the basic enabling of international trade and its effects on our domestic economy. The entire area of congressional policy has been reviewed in this bill.

I believe that the coordination of specifics such as the competitive nature of Eximbank's operations with its counterpart financing facilities in other countries and its relationship to private capital available here, the considerations of other economic impacts, energy-related projects and small business, and particularly the establishment of interest rates on its loans, along with the reporting requirements levied in this bill, will give the Congress a much more comprehensive opportunity to have an effect on the entire Eximbank operation.

Moreover, a system of prior notification is set up in this bill as a compromise between the House and Senate provisions which will, in effect, give the Congress an opportunity to act prospectively and not only in a remedial manner. The entire question of assistance for sales and projects in the Communist countries, the Soviet Union in particular, was the subject of intensive bargaining among the conferees and I can report that the compromise which we reached affords the broadest opportunity for trade which will be in our national interest while restricting effectively any questionable or marginal transactions.

Additional curtailment of the participation of the Soviet Union in Export-Import Bank operations is made clear in the section on the relationship to the Trade Reform Act. I believe that this bolsters the position of the House by providing a temporary measure until effective permanent legislation can be enacted.

As my colleagues well know, the Export-Import Bank has operated under a series of temporary extension since June 30 and its present authority to do business is slated to expire at the end of this month. It is imperative then that we act with dispatch to provide this needed authority to the Export-Import Bank. I can assure my colleagues that this bill represents a cohesive package which will enable the Export-Import Bank to carry out its functions in a manner mutually beneficial to our own economy and with substantial favorable international effects. Accordingly, I commend this conference report for favorable action.

Mr. ICHORD. Mr. Speaker, will the gentleman from New Jersey yield for a question?

Mr. WIDNALL. I will be glad to yield to the gentleman.

Mr. ICHORD. I understand that the conference report does contain a provision that no loan guarantee or credit shall be extended to the Union of Soviet Socialist Republics until the Congress acts on the Trade Reform Act; is that correct?

Mr. WIDNALL. That is correct; 30-day notice.

Mr. ICHORD. Is it also true, I would ask the gentleman from New Jersey, that the conference report does not raise the loan limitation of the Export-Import Bank?

Mr. WIDNALL. I believe that is true.

Mr. MINISH. Mr. Speaker, I yield such time as he may consume to the chairman of the committee, the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, I rise in support of the conference report on H.R. 15977, to amend the Export-Import Bank Act of 1945, and for other purposes. This act provides the authority to foster the expansion of the export of goods and related services, through export credit assistance, thereby contributing to the promotion and maintenance of high levels of employment and real income and the increased development of the productive resources of our country. This authority, unless extended, will expire on November 30, 1974.

There were 24 provisions of substance which were the subject of conference. The House receded to the Senate in 5 instances, and the Senate receded to the House in 12 instances. In seven instances the conferees agreed on compromise language.

Mr. Speaker, there are few instances which I can recall in which the position of the House in conference was so successfully sustained. This is a tribute to the members of the Subcommittee on International Trade, and to its able and distinguished chairman, Mr. ASHLEY, who proved themselves so well prepared to deal with the issues in disagreement, following months of efforts to bring this legislation forward.

In closing I want to commend the House conferees—and most especially the chairman of the International Trade Subcommittee of the House Committee on Banking and Currency, the Honorable THOMAS L. ASHLEY—for the long hours and hard work devoted to this subject. He and the members of the subcommittee, all of whom participated as conferees, are to be commended for their efforts in bringing back to the House a bill which overwhelmingly represents the position of the House on this subject.

Mr. MINISH. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Ohio (Mr. ASHLEY).

(Mr. ASHLEY asked and was given permission to revise and extend his remarks.)

Mr. ASHLEY. Mr. Speaker, I wish to extend my thanks to the chairman of the full committee, the gentleman from Texas (Mr. PATMAN), for the generous and kind remarks he has offered.

I wish also to thank my very good friend, the gentleman from New Jersey (Mr. MINISH), for the help he has given me.

Mr. Speaker, this is important legislation which has been the subject of lengthy consideration and deliberation. It faithfully reflects the will of the House and merits adoption.

The Export-Import Bank must continue to expand its support to the American export sector, but it must do so under changed conditions and with a new sense of direction which the legislation signals. The $5 billion increase in lending authority which this bill provides is needed and needed now. At the end of fiscal year 1974 the Bank had for the first time actually used the congressionally approved budgetary limit set on loans for that year. This meant that for the first time projects on the order of $700 million were carried over into the new fiscal year.

It has become clear that the additional billions we will have to pay for imported oil will bring us into a substantial deficit for 1974 even though we have been increasing our agricultural and capital goods exports by substantial amounts. To avoid a rising trade deficit and a cheapening of the dollar, it will be essential for us to expand the trade surplus we have been achieving in machinery and transport equipment.

Deteriorating trade accounts have emerged in Europe, Japan, and in most of our best markets in the less developed world. As other nations see their monetary reserves falling as a result of higher oil import costs, they are pushing their exports harder, just as rising import prices have increased our need to export.

All of this increases the needs of American industry for the services of the Export-Import Bank. The attractiveness of the credit offered by various countries will be a much larger factor in sales competition. The conference report provides the tools and the policy guidance appropriate for the functioning of the Export-Import Bank at this time and in the years immediately ahead.

Mr. VANIK. Mr. Speaker, I have long been concerned about many of the Export-Import Bank's policies. I do not understand their heavy loans for foreign oil and mineral development when we so desperately need energy capital here at home. American international airlines are in serious trouble—yet the Bank

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by individuals who have been denied access to their records or whose records have been kept or used in contravention of the requirements of the act. The complainant, if successful, may recover actual damages and costs and attorneys fees, if the agency's infraction was willful, arbitrary or capricious.

Mr. Speaker, I urge the adoption of House Resolution 1419 in order that we may discuss, debate, and pass H.R. 16373.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I will be happy to yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I had a number of questions about this rule and the bill, but the gentleman from Illinois (Mr. MURPHY) described it in such a truly effective fashion that I at this point do not have any questions.

I commend the gentleman for the scholarly presentation.

Mr. MURPHY of Illinois. I thank the gentleman for that comment.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA).

(Mr. LATTA asked and was given permission to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, this rule, House Resolution 1419 provides for the consideration of H.R. 16373, the Privacy Act of 1974. There will be 1 hour of general debate on the bill and it will be open to all germane amendments. In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment.

The general purpose of H.R. 16373 is to protect the privacy of individuals by regulating the Federal Government's collection and use of personal information.

The bill includes provisions to do the following things: (a) The bill permits an individual to have access to records containing personal information on him kept by Federal agencies for purpose of inspection and correction, with some exceptions, such as national security and law enforcement records. (b) The bill will make known to the American public the existence and characteristics of all personal information systems kept by every Federal agency. (c) The bill prohibits any Federal agency records from including information on political and religious beliefs unless authorized by law or the individual himself. (d) The bill provides a civil remedy by individuals who have been denied access to their records or whose records have been kept or used in violation of this act. The plaintiff may recover actual damages and costs and attorney's fees if the agency's violation was willful, arbitrary or capricious. (e) The bill provides that anyone who obtains a Federal record containing personal information by false pretenses is subject to a fine up to $5,000.

Mr. Speaker, I would like to point out that on October 9 the President sent a message up here in which he stated as follows:

H.R. 16373, the Privacy Act of 1974, has my enthusiastic support, except for the provisions which allow unlimited individual access to records vital to determining eligibility and promotion in the Federal service and access to classified information. I strongly urge floor amendments permitting workable exemptions to accommodate these situations.

The cost of implementing this bill is estimated to be between $200 million and $300 million a year, with a one-time "start up" cost of $100 million.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Ms. ABZUG. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16373) to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies.

The SPEAKER. The question is on the motion offered by the gentlewoman from New York (Ms. ABZUG).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 16373, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. HOLIFIELD) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I yield 9 minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

(Mr. MOORHEAD of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, it is with a deep feeling of honor and pride that I present to the House of Representatives today H.R. 16373, "The Privacy Act of 1974."

Like the Freedom of Information Act, this bill is also totally bipartisan. It was approved by the Committee on Government Operations by a unanimous rollcall vote of 39 to 0. It has the enthusiastic support of President Ford except on one point which the House itself will resolve when an amendment is offered on the floor. More important, I sincerely believe such legislation has the widespread support of the American people. I believe they want us to act on this bill without delay.

It seems to me that the events of the past several years have a lesson in them. Americans want to see more credibility in Government, and they want to see the removal of any undue Government power which could be used to invade their personal privacy.

This landmark legislation, H.R. 16373, is a first step in that direction. It is in total harmony with the spirit of the Constitution. It gives individuals as a matter of right some meaningful control over how the Federal Government utilizes personal information about them.

H.R. 16373, when passed and signed by the President, will be the first comprehensive law dealing with the right of privacy of the individual citizen.

At the outset, I should state that this bill affects only personally identifiable files or systems of files held by the Federal Government. It does not seek to regulate those files maintained by State or local governments or by private entities.

Although this bill appears complicated on its face, it breaks down into four straightforward provisions: First, notice; second, access; third, regulation of disclosure, and fourth civil and criminal remedies.

NOTICE

Basically the bill provides that each and every system of records, as defined by the act, shall be made public by notice in the Federal Register. This notice shall list the essential characteristics of the system, the categories of persons to which it applies, its physical characteristics, the uses to which it is put, and the person responsible for its maintenance and operation.

ACCESS

Each individual shall be given access to his record within the system on his request, with the exception of files related to criminal investigations or national security. Along with access to the file, the individual concerned shall have the right to challenge inaccurate information and supplement the file to explain or contradict inaccuracies.

DISCLOSURE

Disclosure of the information by the agency holding the file shall be limited to those disclosures which are of the type previously announced in the Federal Regitser. Other disclosures of a "nonroutine nature" may be made only upon the prior written informed consent of the individual concerned.

REMEDIES

Civil damages are available to individuals who are injured by determinations made on the basis of inaccurate or incomplete records and criminal penalties are provided for illegal disclosure by Government employees, or fraudulent access by individuals.

I am going to say something very important now, especially in light of disclosures during the last week or so on the Federal Bureau of Investigation and the Internal Revenue Service. H.R. 16373 also prohibits the Government from keeping secret personal information systems and collecting records on political and religious beliefs. This proposed statute would thus provide greater safeguards for protecting the lawful exercise of first amendment rights.

The remainder of the provisions of the bill are designed to provide the legal teeth to enforce these rights and limitations. Special provision is made to protect America's legitimate and legally authorized interests in national security and law enforcement.

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We have tried to tailor this bill so that it will protect individual rights and at the same time permit the Government to operate responsibly and perform its functions without unjustifiable impediments.

As a result, we think it will go a long way in restoring confidence by the American people that Government is indeed responsive and sensitive to individual rights. Simply put, this legislation will demonstrate that Congress is determined that Government will act as the servant of the people and not its master.

Under a key provision of this bill, no Federal agency shall disclose any personal information record to another agency or person unless this action is done by request of the individual or with his prior written consent.

An exception is permitted in the case of routine transfers, such as when the Social Security Administration instructs the Treasury to issue a benefit check.

Thus routine transfers of personal information will be permitted between agencies so that the regular business of Government can proceed without delay. Nonroutine transfers, however, are another matter. In those cases, the prior written consent of the individual will be required by law.

What is a nonroutine transfer? That is a transfer of personal information used for a different purpose than for which it was originally collected. This in itself is going to stop a lot of hanky-panky. It will make it legally impossible for the Federal Government in the future to put together anything resembling a "1984" personal dossier on a citizen.

It means interagency computer data banks will not be able to share personal information unless the data is truly a routine transfer where its general use has already been made known to the individual and his consent obtained.

The consent requirement and other provisions of the bill are backed up with criminal and civil penalties. This also will help protect Americans and at the same time give Government officials a good reason to say "no" to any improper requests from anyone for personal information on any other American.

This legislation also requires that Federal agencies, in making determinations on individuals, utilize records which are accurate, relevant, timely, and complete. This assures fairness to the individual and, in our view, is going to result in much better decisions by Government officials.

Senator ERVIN has referred to the situation existing now as "the Government's voracious appetite for personal information about each of us."

His subcommittee reported that the Federal Government has at least 858 data banks of which 741 were computerized. Although 93 agencies did not report the number of records kept, those which did, reported a total number of records kept as 1 billion, 245 million individual records or an average of almost 6 records for every man, woman, and child in America.

When such information is stored on tape it is easily transferred from one user to another.

The potential danger to individual freedom is so great that it is easy to understand why the concept of legislation to protect the privacy has support from a broad spectrum of political and philosophical beliefs.

I think the Members should be aware of the fact that in the event of the failure of Congress to act on this legislation, the President intends to issue an Executive order which would put a similar privacy system into effect. However, it would lack the necessary civil remedies and criminal penalties to provide our citizens with adequate redress. Besides, this task is a congressional responsibility and I think you will agree, we should face up to it.

On another matter, our subcommittee has received numerous phone calls from State tax commissioners asking whether their tax information transfer agreements with the U.S. Internal Revenue Service will be harmed by this bill. The answer is "no," because I am certain the Treasury Department will publish that type of activity as a "routine transfer" permitted under this bill and other statutes.

My colleagues, H.R. 16373 actually is the result of an awareness of the problems of invasion of privacy which began growing more than a decade ago when the House Committee on Government Operations started its initial investigations into this subject. Other committees also discovered what these problems are.

A lot of water has passed under the bridge since then. The Nation has survived numerous major and minor "floods." It is now time to build a strong dam to make certain we are not endangered again. I beseech you to support this bill and implement the Constitution, as we have a duty to do.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding. With reference to the gentleman's statement that this would keep the Government from maintaining records as to political beliefs, would this bill prevent the Federal Bureau of Investigation from maintaining a list of Communist Party members or people who belong to organizations which are dedicated to the violent overthrow of the Government, or anything of that sort?

Mr. MOORHEAD of Pennsylvania. Lawful criminal investigations of that type would be exempt from the bill, but normal dissidents, exercising first amendment rights, would be covered.

Mr. DENNIS. If it hinged on the criminal field, it would come under the exemption which was referred to earlier?

Mr. MOORHEAD of Pennsylvania. The gentleman is correct.

Mr. DENNIS. And would the gentleman agree that if it dealt with individuals or organizations dedicated to the violent overthrow of the Government, that that would fall within the criminal exemption?

Mr. MOORHEAD of Pennsylvania. Anything that falls within the criminal exemption is taken care of. We have tried to prepare it very carefully.

Mr. DENNIS. Activity dedicated to violent overthrow of the Government would fall under criminal exemption, would the gentleman agree with me on that?

Mr. MOORHEAD of Pennsylvania. Yes. That is what I am saying.

Mr. DENNIS. I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York (Ms. ABZUG).

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Chairman, this is indeed a landmark piece of legislation. H.R. 16373 regulates the collection, maintenance, and use by Federal agencies of information pertaining to individuals. It is a very significant first step in an attempt to guarantee the right of privacy to all Americans. It is the product of many, many months of hard work, and of many bills that have been before the Congress which the committee has considered in great depth. Much credit is due to my colleague, Mr. Moorhead of Pennsylvania, the chairman of the Foreign Operations and Government Information Subcommittee, and to that subcommittee's staff members for the months of diligent effort in the drafting of this significant legislation. The bill which has been reported out of the committee is a good bill, but I believe it is a bill which requires some additions and changes to strengthen it. The amendments which I plan to offer today in connection with this bill are amendments which would have been brought before the full committee, but, in order to expedite the consideration and the bringing of the bill to the floor of the House, they were left for floor action. So, although I support the bill and, indeed, have been the author of one of the bills before the committee, along with the gentleman from New York (Mr. KOCH) and the gentlemen from California (Mr. GOLDWATER) who also had bills which were considered by the committee, I feel that there have to be some improvements.

There are three basic weaknesses in the bill: the numerous and unjustified exemption provisions, the failure to provide either liquidated or punitive damages, and the lack of any administrative mechanism to oversee the implementation of the bill.

First, exemptions from the provisions of this bill or of any bill designed to protect individual rights of privacy can be justified only in the face of overwhelming societal interests. There are, at most, only three areas where societal interests can be paramount to the individual rights provided in this bill: First, where granting an individual access to his or her records would seriously damage national defense or foreign policy; Second, where such access would interfere with an active criminal prosecution; and Third, where records are required by law to be maintained for statistical research or reporting purposes and are not, in fact, used to make determinations about identifiable individuals.

It follows that exemptions should relate to the type of data sought to be protected from disclosure, not to the agency maintaining such records. For this reason, I will offer amendments to eliminate the general agency exemptions

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provided in the bill for the CIA and the Secret Service.

I will also support an amendment to provide for the assessment of punitive damages in cases of willful, arbitrary, or capricious violation of the bill and for actual damages in cases of negligent violations. These provisions were stricken in the full committee, and, as a result, an individual who may have suffered by violation of the act must now prove not only actual damages but that such damages were caused by willful, arbitrary, or capricious agency action. I believe that these two stricken-out provisions must be restored to the bill to provide, as the bill in the other body does, for actual damages to compensate for any violation of the act and for punitive damages to compensate for any willful, arbitrary, or capricious violation. If this is not done, there really is no adequate remedy at law.

I will also support an amendment which I brought in the committee to establish a Federal Privacy Commission. Without such a commission, we have no assurance that agencies will not be motivated by mere whim or convenience in divulging or withholding information.

We would be more than naive if we failed to recognize that individual Federal agencies cannot be expected to take an aggressive role in enforcing privacy legislation. Enforcement of the provisions of this bill will be secondary to each agency's legislative mandate and will, of necessity, cause additional expense and administrative inconvenience. Only by providing a separate administrative agency with authority for implementing this legislation and for coordinating the privacy programs of the various Federal agencies can we be assured of uniform, effective enforcement of the rights guaranteed by this bill.

I would hope that we will support this bill with the amendments proposed. I think that will be the beginning of an important first step in the protection of the right of privacy.

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Mr. ERLENBORN. Mr. Chairman, I yield myself 5 minutes.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I rise in support of the Privacy Act of 1974, H.R. 16373. I think it is rather fitting that this bill comes to the floor today on the same day that we considered a motion to override and have overridden the President's veto on the Freedom of Information Act.

The Subcommittee of Government Operations, known as Foreign Operations and Government Information, is the parent subcommittee of both bills, the Freedom of Information Act and now this new Privacy Act. It has been quite an effort to walk a tightrope in the one bill to provide the maximum access to information on the part of the public, and in the other bill to limit access to protect an individual's privacy.

There has been a tendency, I think, to view these often as conflicting, but I think that we have successfully walked that tightrope and have, in both of these pieces of legislation, very important landmark legislation for open government, and yet the protection of individual rights.

The Privacy Act of 1974 does several things that I am sure will be delineated and explained by the several Members who will be engaged in debate. Generally it requires that when the Federal Government does maintain a system of records pertaining to individuals, it must identify publicly those systems of records. There will no longer be the ability within Government to maintain secret systems.

Not only in the past has this been done for any nefarious purpose, but the system of records may be instituted and maintained and the public just not know about it.

So that is the first thing that will be done: identify the systems of records and make public the fact that such records are being maintained.

Second, again a public record would be made of the purpose for which the system is being maintained. Then we would limit in the bill access to these records for those purposes so that information contained in those systems would be used only for those routine purposes, and unless the individual about whom the information related agreed to its use for other than routine purposes, it could not be so used.

It could be used then only for the routine purposes. This limits the purpose and the use of these information systems to the public purpose which has been made known, the purposes identified in the Federal Register.

Third, we provide for access by individuals to information in these record systems pertaining to himself or herself, so that a person about whom information has been collected will have an opportunity to get a copy of that information and to see if it is accurate and will have the procedure where he can request the amendment of the information to make it accurate and will have an opportunity if the information is misused under the terms of the act for recourse in a civil action through the courts.

In addition criminal penalties are provided for people within Government who violate the terms of the Act in making information available that they should not, thereby invading the privacy of the individuals about whom the information is maintained and also criminal penalties for those who would seek and obtain illegally this information.

I think this is truly landmark legislation. It has been very difficult to draft because of the varying systems and the varying purposes for the systems within the Federal Government. We were of course at times importuned to expand this to all record systems, not just of the Federal Government but of States and local governments and also in the private sector. I think if we had done so we would have bitten off more than we could chew.

I think we have here maybe a modest beginning in the field of privacy but we have an important piece of legislation affecting only Federal Government systems.

We generally exempt from the provisions of this bill the law enforcement proceedings, systems for the criminal justice system, and other committees of Congress will be turning and already have turned their attention to this criminal justice field.

There is one amendment that I hope will be adopted. Several will be offered and I will offer one amendment and I hope it will be adopted and I think it is crucial in making this a workable bill. The bill as it has been reported by the committee and is before us today will open up all preemployment and security clearance files retroactively as well as prospectively. Just think of this. In the past years there have been implied and expressed promises of confidentiality given to people who have been asked to make statements concerning the security clearance investigation or preemployment investigation for those who would be employed by the Federal Government, appointed to Federal office, or Federal contractors engaged in defense work, let us say. These promises of confidentiality would be violated by this bill because the bill would mandate opening up these files so that the person about whom the investigation was conducted would have access to the files and find out who said what about them.

In the name of privacy we would be violating the privacy of those who have given such statements in the past. I think we have to strike a balance and see that we cannot violate the privacy of individuals by the very bill that is supposed to be the bill of rights for individual privacy.

The amendment I will offer was discussed in an editorial in the Washington Post this morning inaccurately. They say my amendment would close these preemployment and security files. It would not.

Mr. Chairman, the amendment that I will offer will make all of the information in these files available to the individual about whom the investigation has been conducted, except that information which would reveal the identity of a person who has under a promise of confidentiality given information contained in the file. Even the Washington Post editorial suggested that other legislation in the field of credit, the Fair Credit Reporting Act, had struck a good balance here by saying it is to protect only that information which would reveal a confidential source. They seem to think that was a good way of protecting both individuals' privacy. That is exactly what the amendment that I will offer will do. It will protect only those sources that have given information under a promise of confidentiality.

In addition, the Office of Management and Budget has assured me that regulations will be adopted in the future so that only in the most compelling circumstances will a promise of confidentiality be given. It will not be the customary thing to make these promises of confidentiality, so that most all of the information will be made available.

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Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. For the purpose of making legislative history, I should like to ask about the impact of this legislation as it affects one aspect of the current law.

I currently represent an area which at one time was represented by one of our predecessors in the Congress, the illustrious Jackson Betts, who was very concerned about the confidentiality of the Bureau of Census information.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ERLENBORN. I yield myself 2 additional minutes.

Mr. BROWN of Ohio. Mr. Chairman, the Bureau of the Census has a singular and highly commendable record of scrupulous protection of the confidentiality and privacy of census data about individuals and about businesses.

This is a matter of concern to every American, and the integrity of such information is essential to the public trust which is in turn essential to the accuracy of census findings.

These census findings provide the factual bases for: First, countless governmental and private decisions which profoundly affect the economy, second, equity and fairness in revenue sharing measures, and third, the determination of representation in the Congress.

The continuing confidentiality of such census information is mandated by statute—section 9 of title 13 of the United States Code—as affirmed by repeated Presidential proclamations.

It is true that neither the purpose nor effect of subsection (b) or (1) or of any other provisions of section 562a as set forth in this bill are to modify or relax in any way the safeguards of title 13?

Mr. ERLENBORN. Mr. Chairman, the answer to the gentleman's question is that this bill in no way would diminish the protection provided by law for census data.

Mr. BROWN of Ohio. I wonder if the gentleman would yield further so that I might receive the concurrence of the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. ERLENBORN. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I agree with the remarks of the gentleman from Ohio and with the gentleman from Illinois.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Indiana.

Mr. DENNIS. I would like to make reference to the question of criminal records, publication of criminal records, which are generally exempted from the bill, as I understand it.

The gentleman said a moment ago that those records are the subject of pending special legislation, and obviously those are very sensitive records and present a peculiar problem, and the subcommittee of the Committee on the Judiciary, chaired by the gentleman from California (Mr. EDWARDS) and of which the gentleman from California (Mr. WIGGINS) is the ranking minority member, has special legislation on that subject now before it. That subcommittee is tied up in a meeting today on a very important matter that the members of the subcommittee could not avoid, and hence they are not on the floor; and they have asked me to bring the matter up and express the strong hope that the House adopt no amendment that would impinge on that situation and would include criminal records in this bill.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the ranking member of the Committee on Government Operations, the gentleman from New York (Mr. HORTON).

(Mr. HORTON asked and was given permission to revise and extend his remarks.)

Mr. HORTON. Mr. Chairman, I rise in support of H.R. 16373, the Privacy Act of 1974.

Having served as a member of the Special Subcommittee on Invasion of Privacy of the Committee on Government Operations some 10 years ago, I have a particular interest in the subject of personal privacy. During my 5 years of service on the Foreign Operations and Government Information Subcommittee, I participated in several investigative hearings into this important area. Today, as ranking minority member of the Government Operations Committee, I am very happy to lend my strong support to a bill which insures that Federal Government agencies protect individuals' rights to privacy when dealing with information about people.

The bill does this in two ways:

First, it mandates that agencies disclose an individual's records to other persons or other agencies only with the written consent of that individual, unless the disclosure would be for a purpose which had been endorsed by the Congress or published in the Federal Register. Whenever the Government asks someone for information about himself, according to the bill, it would have to inform him of the disclosures which had been published as permissible.

Second, the bill provides that individuals shall have access to all Government records maintained about them, and shall have the right to petition agencies to correct any misstatements in those records. Agencies would have to make the changes requested or note on the records that the changes had been sought, but that the Government disagreed with them.

All Federal records pertaining to individuals would be covered by these provisions, except for national security information, investigatory material compiled for law enforcement purposes, other criminal justice records, Secret Service and CIA files, and statistical data.

To make sure that Government agencies fulfill their responsibilities under this legislation, the bill permits individuals who are injured by Government agency's failure to comply with the law to bring suit against the agency in Federal court. A successful complainant could be awarded actual damages and attorney's fees by the judge.

Mr. Chairman, this is landmark legislation in an area of concern to all Americans. I urge its enactment.

Mr. ERLENBORN. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. GUDE).

(Mr. GUDE asked and was given permission to revise and extend his remarks.)

Mr. GUDE. Mr. Chairman, as a cosponsor of this legislation, I am indeed gratified that it is finally receiving the floor consideration which it should.

I want to commend the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD); the ranking member, the gentleman from Illinois (Mr. ERLENBORN); and, in particular, the gentleman from California (Mr. GOLDWATER), the gentlewoman from New York (Ms. ABZUG), and the gentleman from New York (Mr. KOCH) who are also cosponsors of this legislation. They have been a driving force toward its consideration and in bringing it to the point where we find it at this moment.

The chairman of the subcommittee has very well outlined exactly what this legislation does. It is long overdue. This is the kind of attention that Government records have needed for some period of time. I think matters which we consider routine and perfunctory are very often hidden under agency directives, rules, and regulations, and we assume what is normal to us on the Hill to be what is normal throughout the Federal Government.

Increasingly, as the society and the Government have grown more complex, the maze of Federal activity and regulation have intensified, and the individual citizen has had to make increasing concessions to the imperatives of the Federal bureaucracy. The quantity of Federal paperwork alone, for example, has reached such proportions, that the House felt the need last month to authorize the establishment of a Commission on Paperwork to study the problem and find ways of reducing the burden which bureaucracy imposes on the citizen.

The level of regulatory activity which touches on the lives of individual citizens has also increased. Seat belt standards, now repealed, safety and health standards, labeling and advertising standards, while important Government tools to correct serious problems we have, all intrude on the freedom of the individual in some small way.

Certainly the demands of a complex technological society call for some concessions, but we have before us today an opportunity to help balance the recent trend of legislative activity by enacting legislation to help restore individual rights and individual privacy. This bill imposes limits on what the Government can do with individual data, and it imposes obligations on the Government to the subjects of the data, and in doing so it helps to maintain the balance of individual freedom and privacy which we all cherish.

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Symbolic of this balance is the controversy over the use of social security numbers for identification purposes. While such a proposal may make sound technological sense, to many citizens it implies removal of an important elcment of their privacy and individuality. This question is not dealt with in this bill, but some of the same principles are—the right of the individual to maintain his privacy and personal identity.

Beyond these questions of principle, the bill also has substantive significance for many citizens who feel, rightly or wrongly, that they have not received a "fair deal" from their Government.

Mr. Chairman, I would like to quote the experience which one veteran had in regard to the Veterans' Administration. He was unable to obtain compensation and relief for injuries he had received while serving his country abroad, and yet he was unable to look at his records in the Veterans' Administration files. He finally had to obtain legal counsel in order to get access to his files, and he found the reason the Veterans' Administration had denied his obvious need was because certain records that were in his file actually belonged to another veteran who had a similar name.

This may seem to be a very small thing, but this is the type of action which can occur in situations when we in Congress have not enacted regulations to provide for the overseeing of Federal records, which can sometimes be buried under a lot of bureaucratic redtape which denies the citizen the access to which he is entitled.

Mr. Chairman, I am going to offer two amendments to this bill at the appropriate time. They are amendments which I was unable to offer in the committee, because of the pressure of business when we were reporting the legislation to the floor. The first has to do with medical records.

This first amendment would clarify one item that I believe to be ambiguous in intent, in restricting the circumstances under which individuals would be granted disclosure by Federal agencies. It was the intention of the committee to exclude information which would be vital to the health or safety of an individual.

I believe that the current language in the bill is vague in this regard, in that it would permit such disclosures without prior permission, unless it is an emergency case. It does not make clear to whom the information would be disclosed.

The second amendment I would offer is one that would establish a Privacy Commission, which I believe is a vital necessity if the privacy legislation we are enacting is to become a meaningful statute. Clearly, the enactment and maintenance of successful privacy standards would hinge on the degree of cooperation provided by Federal agencies which have to implement the program.

The Privacy Commission which I will propose will coordinate and assist in these efforts, and it would be an important goal for gaining the necessary agency cooperation in order to make this legislation meaningful in the service of American citizens.

Mr. Chairman, I will offer these two amendments at the appropriate time.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I will be glad to yield to the chairman of the full committee.

Mr. HOLIFIELD. Does the gentleman's amendment of the privacy bill follow the words of the Senate provision?

Mr. GUDE. I have not compared them word for word, Mr. Chairman, but I believe it does.

I urge the passage of this legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. ALEXANDER), a member of the subcommittee.

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Chairman, on June 19, following hearings on the Federal Government's use of telephone monitoring and lie detection devices conducted by the Subcommittee on Government Information, I stated that it appears our Government has been overcome by a snooping mania and that we must find the medicine to cure this disease. H.R. 16373, the Privacy Act of 1974, is a good dose of such medicine.

I was alarmed to discover in those hearings that it is literally possible to have every home in America bugged.

Mr. Chairman, I am convinced that Americans do not want to be a part of one big party line. If present Government preoccupation with spying on its citizens continues, George Orwell's fictional fishbowl existence and "Big Brother" era in his book "1984" may very well occur.

H.R. 16373 provides basic safeguards for the individual to help remedy the misuse of personal information by the Federal Government, and reasserts the fundamental rights of personal privacy that are derived from the Constitution. At the same time, it recognizes the legitimate need of the Government to collect, store, use, and share among various agencies certain types of personal data, but under a framework of law to protect the citizen.

Like the Freedom of Information Act Amendments, H.R. 16373 also recognizes that certain areas of Federal records are of such a highly sensitive nature that they must be exempted from some of its provisions.

The Privacy Act provides for the exercise of civil remedies by individuals against the Federal Government through the courts to enforce their rights. Provision is made for the actual collection of damages by the individual against the Government if the infraction was willful, arbitrary, or capricious. Penalties are also provided for the unauthorized knowing and willful disclosure of identifiable material b ya Government officer or employee by a fine of not more than $5,000. Criminal penalties and fines would also be imposed on persons requesting or obtaining any such individually identifiable record under false pretenses.

The bill attempts to strikc that delicate balance between two conflicting and fundamental needs—on the one hand, the need for a maximum degree of privacy and control over personal information the individual American furnishes his Government, and, on the other hand, the need for information about the individual which the Government finds necessary to carry out its legitimate functions.

Over 40 years ago, Supreme Court Justice Louis Brandeis, in his famous dissent in the case of Olmsted against United States, said:

> Every unjustifiable intrusion by the government upon the privacy of the individual whatever the means employed, must be deemed a violation of the fourth amendment.

He further stated in terms relevant to current wholesale abuses of power that:

> Experience should teach us to be most on guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasions to their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding . . .

Let us talk a moment on the concept of privacy. Privacy is the ability to be confident of security in our homes, persons, and papers. It is not only the bedrock of freedom. Privacy is the very essence of democracy. If we cannot speak or transact business without being snooped on by hordes of burcaucrats—we soon will not be able to speak or transact business without government permission.

In my opinion, events in recent years have brought about a chilling effect on the exercise of first amendment rights. It is now time for a defrosting. Every American must insist that government is the servant of the people—not our master.

In his first speech as Chief Executive, President Ford pledged his personal and official dedication to the individual right of privacy, in declaring that "there will be hot pursuit of tough laws to prevent illegal invasion of privacy in both government and private activities."

H.R. 16373 is a first step in that pursuit. I strongly urge my colleagues to support this legislation.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. I thank the gentleman for yielding.

(Mr. HUDNUT asked and was given permission to revise and extend his remarks.)

Mr. HUDNUT. Mr. Chairman, I rise in support of H.R. 16373, the Privacy Act of 1974. While there will be amendments offered to strengthen this bill, I feel the Committee on Government Operations has done a good job in bringing this legislation before us. There is a great need for statutory guidelines to protect the privacy of individuals by regulating the Federal Government's collection, maintenance, use, or dissemination of personal, identifiable information.

In this computer age, it is easy to obtain informaton about an individual and along with many others I am concerned over the extent to which citizens' privacy is being invaded. We see this in the accumulation of personal data in computer banks and other such means

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which constitute a threat to the privacy of every American citizen. There are some who look upon individual tax returns as the greatest source of such information.

Earlier this year I cosponsored a bill (H.R. 10977) to provide further restrictions on accessibility to individual tax returns. The assurance provided the American people that information voluntarily given on tax returns will be carefully protected from disclosure and improper use is one of the basic concepts underlying this country's system of collecting taxes and I want to assure that protection. I am hopeful that the Ways and Means Committee will take specific action on that measure.

In the meantime, H.R. 16373 provides a series of basic safeguards for the individual to help remedy the misuse of personal information by the Federal Government and reassert the fundamental rights of personal privacy of all Americans that are derived from the Constitution of the United States. At the same time, it attempts to strike that delicate balance between the right of individuals for a maximum degree of privacy over the personal information he furnishes his Government and the need of the Government for information to carry out legislative functions.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. GOLDWATER).

(Mr. GOLDWATER asked and was given permission to revise and extend his remarks.)

Mr. GOLDWATER. Mr. Chairman, I thank the distinguished minority member on the subcommittee, the gentleman from Illinois (Mr. ERLENBORN) for allowing me the privilege of speaking in favor of this particular legislation before us today, which has been long in coming and long overdue.

This particular piece of legislation is the result of a strong bipartisan effort in the House of Representatives. The efforts of my colleague, the gentleman from New York (Mr. KOCH) in behalf of an individual's right to privacy, are well known and were extremely important in the preparation of this legislation. Equally significant were the efforts of the members and the staff of the Subcommittee on Foreign Operation and Government Information of the Committee on Government Operations and, particularly, the subcommittee chairman, the gentleman from Pennsylvania (Mr. MOORHEAD) who was most diligent in pursuing this very difficult task, and who was assisted quite ably by the ranking Republican member, the gentleman from Illinois (Mr. ERLENBORN). They are both to be commended for this excellent piece of legislation.

This legislation, as I said, has been long in coming, and is only here today because of the persistent efforts of not only members of the Committee on Government Operations, but also many Members of the House of Representatives, as well as Members of the other body, not to mention the private sector, educators, members of private organizations, and just plain people, and it certainly would be most fitting to mention the fine efforts by our President of the United States, Gerald R. Ford, and his Committee on the Right of Privacy.

Mr. Chairman, my concern for privacy is a long-standing one. The right to privacy is a derivative right. It is not specifically mentioned in the Constitution, as are the general rights of life, liberty, and the pursuit of happiness, nor is this subject mentioned in the Bill of Rights. But none of these would have had the content that we know them to have without the element of privacy being present. It is an essential, inherent element of our inalienable rights.

The concern for protecting personal privacy as it relates to personal information is fairly recent in its origin. The rapid growth of our population and the rise of massive urban centers, the advent of modern communication and electronic technology, and the rise of the computer, have brought a basic change in our society. Massive amounts of personal information can be conveniently and economically collected, stored, and used. The individual is no longer directly involved in the modern personal information transaction process. Many information practices have been developed and adopted because they were convenient, technologically feasible, and cost-effective. The individual actually became an impediment in these new processes. As he began to protest his exclusion and try to protect himself from the injury and damage that occasionally resulted, he found he had no legal rights to fall back on.

Mr. Chairman, the Federal Government has a relentless appetite for information. There seems to be a direct correlation between the continued growth of Government and the continued growth of privacy invasion.

The Federal Government, as we enact more and more programs, has a need to collect more and more information in order to administer these programs. So it is with this piece of legislation that we are trying to strike a balance between the need to know in order to successfully and correctly administer Government programs, and the rights of an individual to be left alone, to control his own personal life. This particular bill undertakes to redress this disastrous imbalance.

The Federal Government is required to permit an individual to know what records it has pertaining to him. It introduces the element of active consent as a requirement before information that is collected for one purpose can be put to a new use. It permits an individual to have copies of files about him and to correct or amend erroneous portions of them.

Finally, it requires the Government to keep records accurately and securely in accordance with specific, published regulations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ERLENBORN. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. GOLDWATER. It is noteworthy, Mr. Chairman, that this Privacy Act of 1974 prohibits the Federal Government from maintaining secret personal information systems. This bill is an important major first step in the restoration of the individual's right to privacy, and I would caution and suggest to my colleagues that as we pursue further legislation in other areas, we constantly be vigilant that we do not undermine this effort today, that we take into consideration in new legislation, enabling legislation, the rights of the individual to his privacy. It is time that we insert human rights into the programs and the programers. It is time that we insert privacy rights into the policy of our agencies. It is time that we instill a spirit of concern for our liberties. We must reestablish—and I think we do so with this legislation—the right to be left alone for the people of this country.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

(Mr. SYMMS asked and was given permission to revise and extend his remarks.)

Mr. SYMMS. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from California (Mr. GOLDWATER).

I should like to commend the gentleman from California for his efforts that he has made on behalf of this Privacy Act which we have here before the House today. I would say to the gentleman in the well I thank him for his support, effort, and leadership on it and hope that it is successful today, as this Privacy Act offers some protection for people from big brother government snoopervision.

Mr. GOLDWATER. I thank the gentleman and commend him also for his support and active participation on the Republican Task Force on Privacy, which issued what I considered a very comprehensive report and bibliography this past year.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may require to the gentleman from California (Mr. ROUSSELOT).

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Chairman, I want to commend my colleague, the gentleman from California (Mr. GOLDWATER) for the effort he has put forward on this issue, and our subcommittee chairman for his work on this issue.

Mr. Chairman, as one of the original cosponsors in this Congress of right to privacy legislation, I rise in support of H.R. 16373, the Privacy Act of 1974.

This is a comprehensive bill which is intended to protect the privacy rights of individuals by regulating the Federal Government's collection, maintenance, use, or dissemination of personal, identifiable information.

Through my committee assignments on Banking and Currency, and Post Of-

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fice and Civil Service, I have become particularly aware of the need for the protection of an individual's privacy rights with regards to bank records and census data. Very strict care must be taken to protect the confidentiality of these records and insure that the information is used only for proper purposes. Since the census questions have become more detailed and extensive, the dissemination by the Census Bureau of statistical data must be more closely regulated in order to protect the individual from being identified by that data. H.R. 16373 does provide proper safeguards in this area.

Mr. Chairman, I have sponsored legislation, H.R. 10021, the Right to Financial Privacy Act. My bill would protect the constitutional rights of citizens by prescribing procedures and standards governing the disclosure of financial information by financial institutions to Federal officials or agencies. The bill we are discussing here on the floor today does not regulate the collection of information by the Federal Government other than to prohibit any agency from maintaining any record concerning the political or religious belief or activity of any individual unless expressly authorized by statute or the individual himself. I realize that by the very nature of the subcommittee's—the Foreign Operations and Government Information Subcommittee of the House Government Operations Committee—jurisdiction it could not get into this area of regulating the activities of the Federal Government specifically with regards to obtaining individual bank records, so I hope that our concern about privacy rights will not stop with the passage of this one bill, H.R. 16373.

I urge support of H.R. 16373 with the hope that in the next Congress, we will give further attention to areas that need to be specifically considered in order to afford our citizens full protection from the violation of their privacy rights by the Federal Government. Of these areas, one of the most important is, I believe, the legislation which I have sponsored to preserve the confidential relationship between financial institutions and their customers and the constitutional rights of these customers.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may require to the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I rise today in enthusiastic support of H.R. 16373. The Privacy Act of 1974. In this bill we are regulating the collection, maintenance, and use of by Federal agencies of information concerning American citizens.

I hope this bill will be the first of a wave of privacy oriented legislation which the Congress will consider in the next few years. Therefore, we must be very careful in laying a foundation for future reforms. Other areas which clearly need attention are the protection of constitutional freedoms for Federal employees, limitations upon distribution of federally collected information, and strict regulations upon the types and use of surveillance tactics employed by Federal agencies. Beyond our limited Federal perspective, we must also seriously examine the activities of private information and collection services.

Since I entered this body in the 92d Congress I have proposed over a dozen bills relating to questions of individual and financial privacy and domestic intelligence. Along with most Members, I am committed to guaranteeing the rights implicit in the 1st, 4th, and 14th amendments. This bill, H.R. 16373, is a good start.

I urge that we pass this bill, with the inclusion of a Federal Privacy Commission and some changes in the civil procedure and criminal penalties sections. It is only a start, but it will be a good base for future laws to protect the personal privacy of all Americans.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, at this time I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

(Mr. ICHORD asked and was given permission to revise and extend his remarks.)

Mr. ICHORD. Mr. Chairman, as its title—the Privacy Act of 1974—and the prefatory findings indicate, it is the commendable purpose of the measure to protect the individual against the misuse of official information. To that end the act would add a new section to what is now commonly known as the Freedom of Information Act (5 U.S.C. 552). The new section, to be designated section 552a, would impose conditions upon the disclosure of official information, and would give individuals affected access to such information so as to permit them to review and, if necessary, to correct the record.

The committee which reported the measure and the gentleman from Pennsylvania (Mr. MOORHEAD) who chaired the subcommittee which had the measure under consideration, are to be commended for the professional manner in which they have sought to deal with this extremely complex and difficult subject.

The "right" of privacy has been said to be the right of the individual "to be left alone." It is without doubt a right inherent in our libertarian system. While it is said that this right is not explicitly asserted in our Constitution, it does however find expression in certain related provisions and in the basic philosophy which prompted the adoption of the Constitution itself. By that instrument those freedoms and liberties were reserved to the individual which were not deemed essential to the coexistence of man in society. Hence, like other rights, the right of privacy is not deemed an absolute right.

Logically, the absolute right of privacy could be fully asserted only in a state of anarchy. But even in such a state, if extended to its outer and extreme limits, the exercise of any such absolute right must necessarily collide with the rights of other individuals. The resulting conflict would consequently result in the destruction of the rights asserted by each. It necessarily follows that if the right of privacy is to be recognized as a legitimate claim in an ordered society, it must be subject to limitations and must be conditioned upon the rights of others and exercised consistently also with the rights of the public.

What we are dealing with in statutes of this type is thus necessarily a balancing process by which we seek to resolve the right of the individual to be left alone with the public and other individual rights "to know." For it is a fact that such latter rights are equally recognized by the Constitution, although in a sense they may collide with the individual's "right of privacy." The first amendment rights of freedom of speech and of the press, for example, intrude upon an individual's right of privacy, but they are rights which are essential to the administration of Government and to the free functioning of our libertarian and democratic institutions. Moreover, the individual's right to privacy must be conditioned by that which is consistent with the continued existence and protection of that Nation and its constitutional system upon which the vitality of the right itself must ultimately depend.

I appears to me that the bill before us has generally resolved the conflict between the rights of the individual and the public and other private rights with considerable success. I propose today to offer only two amendments to the bill which are directed toward clarifying certain aspects of the measure's impact upon our intelligence services, particularly in relation to the acquisition and use of information which is essential to the maintenance of the national and internal security. On their adoption I shall support this measure.

First, however, I should like to express my concern over an ambiguity inherent in the provisions of the proposed subsection (b), at page 22, line 10, relating to conditions of disclosure. This subsection would, subject to the exceptions therein set forth, generally prohibit an agency from disclosing to any person information about an individual without the individual's prior written consent. The subsection would generally authorize only interagency and intra-agency disclosures for authorized law enforcement activities, but do not appear to contain any explicit provisions authorizing certain essential disclosures outside official agencies which would be clearly required if certain vital security programs maintained by the Government are to be effectively carried out. These include, for example, the effective maintenance of the industrial security, industrial defense, atomic energy, and port and vessel security programs. Defense contractors and others involved in the receipt of classified information and related information about individuals are mainly private employers.

I am informed, however, that the provision of subsection (b) (2), which would except from the prohibition the communication of information therein described as "for a routine use," is intended by the sponsors of the legislation to permit such essential disclosures beyond the bounds of the particular agencies involved. If this is effectively ac-

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complished by the language of this exception, it may well be that a specific clarifying amendment is unnecessary on this aspect of the bill. It is my hope that any such ambiguity as may exist on the reach and meaning of this provision, can be obviated in colloquy with the sponsors of the measure at the appropriate time.

On the other hand, I deem it necessary to offer a specific clarifying amendment to the provisions of subsection (e), paragraph 4. This section commences at page 26, line 18, of the bill. The particular paragraph of this subsection to which the amendment will be offered is at page 28, line 13. This subsection and paragraph prohibits an agency from maintaining any record, and I quote, "concerning the political or religious belief or activity of my individual, unless expressly authorized by statute or by the individual about whom the record is maintained." We may well recognize that the purpose of this provision is commendable and legitimate in prohibiting the disclosure of records with respect to conventional political and religious beliefs and activities. However, in its present form it is clear that the provisions can be construed to cover activities which are properly within the scope of legitimate law enforcement. I am assured that the authors of this measure have not intended the provisions to foreclose this proper purpose.

The terms of the broad prohibitions on maintenance of records relating to "political" and religious" activities would, for example, embrace the activities of the Communist Party and similar groups, which, although generally recognized as conspiratorial or clandestine, are nevertheless commonly described as "political." Similarly, certain sects within the Black Muslim movement, which have been described by the Director of the FBI as endangering the internal security, may claim protection under this clause as a "religious" activity.

Although those records of political or religious activity which are "expressly authorized by statute," are excepted from the prohibitions of this paragraph, this is not adequate to exempt the activities of such subversive groups as I have indicated. I know of no existing or enforceable statute which expressly and generally authorizes any particular agency to maintain the records of political or religious activities of subversive groups. I would therefore amend this paragraph by striking out the period after the word "maintained" and add the following:

"; provided, however, that the provisions of this paragraph shall not be deemed to prohibit the maintenance of any record of activity which is pertinent to and within the scope of a duly authorized law enforcement activity."

I believe this clarifying amendment would obviate any ambiguities as to the reach of the prohibition, and would serve to eliminate any adverse litigation on the subject.

The second and final amendment, which I propose to offer to the measure, would affect the provisions of paragraph (2) of subsection (k), at page 34, line 7. This section deals with certain specific exemptions that may be made to the disclosure requirements of the act, particularly with respect to those investigatory files or material which the Act would otherwise require the agencies to disclose to an individual by the provisions of subsection (d). While the provisions of paragraph (2) of subsection (k) would permit the agency to exempt from the mandatory disclosure requirements of subsection (d) investigatory material compiled for law enforcement purposes to the extent it is not now open to public inspection under the provisions of existing law, that is, section 552(b) (7) of title 5, United States Code, it would appear to me that under this paragraph there is a question whether the agency could exempt from public disclosure the identity of individuals and information pertaining to those, for example, who are members of such organizations as the Communist Party and other revolutionary groups having similar objectives.

In view of the fact that there are literally tens of thousands of individuals who are involved in such revolutionary organizations, to require such agencies of the Government as the FBI and the defense intelligence agencies to disclose investigatory material pertaining to such individuals on request, would not only have the effect of literally immobilizing the agencies in the effective execution of their essential and vital work, but would greatly impair, if not destroy, their functioning. The research which would be involved, the extensive correspondence required, and the litigation which would likely ensue as a result of the thousands of requests that would conceivably and very likely pour into the agencies would wreck havoc upon the agencies. Moreover, to permit the indiscriminate raiding of investigatory files, the maintenance of which in confidence is so essential to the protection of the national and internal security, would also destroy their usefulness by revealing the extent of coverage and the method and adequacy of operation of our intelligence forces. Any such result is wholly unnecessary to the attainment of the objectives and purposes of the bill. I would thus amend paragraph (2) of subsection (f) by striking the paragraph in its present form and amend it to read as follows:

On page 34, strike lines 7 through 11 and insert the following in lieu thereof:

"(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section; provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

Thus by its terms the amendment would fully protect the individual by requiring the disclosure to him of relevant investigatory material in the system of records—other than that within the scope of subsection (j)(2)—when, as a result of the maintenance of such material, he is denied any right, privilege, or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible. In such event disclosure is limited to the extent necessary to protect the identity of a source who furnished information to the Government under a promise that the identity of the source would be held in confidence.

This amendment very properly serves the purpose of protecting the investigatory material from being raided by the thousands and perhaps tens of thousands of persons who may seek to do so for no legitimate or excusable purpose.

Hence the right of privacy of the individual is protected, without diminution, to the extent of his legitimate requirements. It shall be recognized that the amendment does not affect the requirements of subsection (b) of the bill, which prohibits disclosure of information beyond the legitimate uses of the Federal agencies maintaining them. Thus the privacy of the individual remains protected by the amendment consistently with the attainment of the purposes of the bill and the national security interest.

There is one final point to which I should direct attention, regarding both the wording of this and my prior amendment, in the use of the term "law enforcement" as applied in the context of these amendments and the bill as a whole. In referring to a "law enforcement activity" and "law enforcement purposes," I am, of course, using the expression "law enforcement" in its general meaning and in the broadest reach of the term. I include within that term those purposes and activities which are authorized by the Constitution, or by statute, or by the rules and regulations and the executive orders issued pursuant thereto. Thus the investigatory material maintained shall include, but not be limited to, that which is compiled or acquired by any Federal agency in connection with and for the purpose of determining initial or continuing eligibility or qualification for Federal employment, military service, Federal contracts, or access to classified information.

I want to emphasize—so that there is no misunderstanding—these changes are designed to protect only legitimate national or internal security intelligence and investigations, and no records or files shall be kept on persons which are not within constitutional limitations. Let the legislative history be explicit. None of these changes are intended to abridge the exercise of first amendment rights. The rights of Americans to dissent in a lawful manner and for lawful purposes must be preserved.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, we did discuss these two questions, I will say to the gentleman from Missouri, and we did say it was our understanding that under the gentleman's amendments no file would be kept of persons who are merely exercising their constitutional rights, as the gentleman stated.

Mr. ICHORD. The gentleman is exactly correct.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. KOCH), who has been so very active in the privacy of information field.

(Mr. KOCH asked and was given permission to revise and extend his remarks.)

Mr. KOCH. Mr. Chairman, first I want to thank the distinguished gentleman from Pennsylvania, my good friend (Mr. MOORHEAD), who is responsible for so much of the language incorporated into this bill and for the efforts necessary to bring it to the floor.

I just want to take special note of what he has done on behalf of privacy as well as take note of the enormous efforts on the Democratic side by the gentlewoman from New York (Ms. ABZUG) and on the Republican side by the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from New York (Mr. HORTON).

Rather than restate the provisions of the bill which have been so amply set forth by a number of the speakers, I would rather simply comment on the fact that this kind of legislation which relates to the privacy of the individual, protecting that individual from Government, has the support of those who are conservatives and those who are liberals.

They have indicated that support by rising in the well this very afternoon, on both sides of the political spectrum and both sides of the aisle.

That is not to say that this bill is a perfect bill. I do not know of any perfect legislation. It may be there have been occasions when there has been legislation never requiring an amendment of any kind brought to this floor and passed, but I am not aware of it.

This bill, however, is a very good bill. There are amendments that will be offered, some that I support, some that I oppose; but the thrust of most of those amendments and the nature of those amendments is intended by those offering them to improve the bill. We may disagree on whether they do or do not; but the persons involved in most of the amendments want to protect privacy and that is key and very important to understand when we discuss those particular amendments.

There is an area that ought to be covered which is not by this bill. If I had my way, I certainly would have it in the bill; that area relates to law enforcement agencies which are, frankly, not covered adequately under this bill. The reason for that is that the Committee on the Judiciary has before it legislation which relates to the criminal data banks of law enforcement agencies. I know that that great committee with its distinguished chairman (Mr. RODINO) and the subcommittee chairman in charge of that subject, the gentleman from California (Mr. EDWARDS) are very concerned about the rights of privacy. So I have no doubt that the legislation which I am informed they intend to bring to the floor, hopefully early in the next session, will cover that data not covered under this legislation, pertaining to law enforcement agencies.

What this legislation does do is open the Federal files in so many areas. Millions of files that are now not available to the public would become available to the public. I am not saying available to the public in terms of seeing somebody else's file, but seeing one's own file, seeing whether the material in there is relevant, seeing whether it is accurate, seeing whether it is current, and if it is not, providing the mechanism whereby that can be corrected.

This is landmark legislation. This is legislation in which I take great pride having espoused it in February of 1969, and later with my good friend, the gentleman from California, Mr. BARRY GOLDWATER. In my own district we refer to the legislation as the Koch-Goldwater bill, and in his district as the Goldwater-Koch bill; but the fact is that while the initial legislation was ours, it has been subjected to extensive review and amendment by the committee and improved upon in a number of ways. This legislation is now the joint work product of many people. I am proud to be one of those who brought this legislation to this point, where its passage seems assured.

Again, I want to express my deep appreciation to the chairman, Mr. MOORHEAD, the members of the committee, its brilliant staff without whose hard work, we would not be here tonight, and to my partner on this legislation, BARRY GOLDWATER, JR.

Mr. BIAGGI. Mr. Chairman, I rise in strong support of this legislation. I feel that passage of this bill today will represent a significant victory in the battle against unlawful and dangerous intervention by the Federal Government in the private lives of the average American citizen.

While the fourth amendment to our Constitution clearly spells out the right of the individuals to privacy in recent years, the Federal Government has intensified their efforts to superimpose themselves into the lives of the individual. Many people pointed to these dangerous actions by the Government as the fulfillment of the Orwellian theory of "Big Brother" as contained in his masterpiece, 1984.

What we are considering today is comprehensive legislation which will take a number of steps to protect the individual from the power of the Federal Government. Perhaps the strongest area of controversy concerns the maintaining of nonessential records by Government agencies against individuals. This legislation addresses itself decisively to this problem in the following ways:

It permits an individual to be aware of and have access to all personal information records compiled by Government agencies, except in cases where these record are needed for law enforcement and national security.

It allows the individual to control the transfer of personal information records from one Government agency to another.

It further specifies the extent of records which can be maintained by the Federal Government, and specifically prohibits keeping of records which contain a person's political and religious beliefs unless clearly provided for by law.

Finally, this legislation sets a new and important precedent by allowing for a civil remedy to be acquired by individuals in instances when they have been denied access to their records or whose records have been kept or used in violation of the provisions of this law. The individual will have the right to bring suit as well as the ability to collect damages if it can be established that such actions were taken capriciously by the Government.

I feel a sense of personal relief in the realization that the Congress has seized the initiative in this area. Many of us sitting here today have been the target of unlawful Government intervention in our personal activities. I feel that the recent abuses of power disclosed in the Watergate hearings may have provided a special impetus for the development of this legislation. One only has to read these hearing to discover the extent to which certain Government agencies either were manipulated or on their own took steps to discredit those individuals they view with suspicion or fear.

On the same token I am pleased to see that certain conditions were contained in this bill. As a former law enforcement officer, I know the value of maintaining information about potential or actually dangerous groups. There are dangerous and anarchistic elements in this society which merit the close attention of law enforcement personnel and I applaud the fact that we are not tying the hands of law enforcement as they work to uphold the law of the land.

Mr. Chairman, the legislation we are considering today is both necessary and vital to the American people. We are a free nation and the strength of our Nation derives from the rights of the individual to freedom and privacy. Many Americans have become justifiably alarmed in recent years by the increased activities of the Federal Government in the area of maintaining personal records and information. We are today striking a blow against the potential of tyranny in this Nation and I am pleased to rise in support of this bill which can only enhance and strengthen the bonds of freedom which exist in this Nation.

Mr. REGULA. Mr. Chairman, I rise in support of H.R. 16373, the Privacy Act of 1974.

In April of this year I joined with my colleagues Messrs. GOLDWATER and KOCH in participating in a special order to discuss the need for the establishment of a national privacy policy. A singular point or theme emerged from that discussion; one of the basic tenants of our system of law is the right to confront a witness or an accuser and to cross-examine him in order to elicit the truth.

In recent years computers, photocopiers, and other technological advances have made the storage and retrieval of information about citizens fast and relatively inexpensive. Almost without notice and in the name of efficiency our technological progress has moved us toward the "big brother" supervision predicted in George Orwell's book "1984."

Today, an individual does not really know who has information about him, or how many agencies or corporations are using it or for what purposes. There

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is no mechanism for providing explanations or to add mitigating facts. And, even more important there are no limits on what can be collected either by Government or the private sector.

Information is collected on academic achievement, credit ratings, health, judicial records, employment history, birth and marriage records, military records, tax returns and census records, to name a few.

The written word, film, or computer punch card bears witness as eloquently as the spoken word. The right of access to and challenge of records by the subject of the information obtained in those records could, if exercised under the same or similar rules, only instill confidence in aid our governmental process.

This bill, H.R. 16373, would provide the Government with the tools it needs to regulate, collect, maintain, use, and disseminate personal, identifiable information. It would provide individuals with the safeguards they need to prevent misuse of this information.

Like the Freedom of Information Act, which I am sure this Congress will pass in one form or another, this bill is a significant step toward open government.

I urge my colleagues support for passage of this bill.

Mr. BROYHILL of North Carolina. Mr. Chairman, I strongly support the passage of H.R. 16373, the Right to Privacy Act. Earlier this year, I cosponsored H.R. 15524, a forerunner of this legislation.

I feel, as do many Members of Congress, that there is a growing capacity for major violations of the privacy of Americans, as the Federal Government increases its collection and use of data furnished by citizens for specific governmental purposes. Safeguards are needed to insure that the personal information obtained by the Government, for legitimate purposes, is not misused. Recently, we have witnessed flagrant violations of the constitutional rights of some of our citizens by the Federal Government. We should enact legislation now to insure that these individual rights are never again violated.

While there can be no absolute protection of privacy in any society, I believe H.R. 16373 provides the necessary safeguards for greater protection of private records. Perhaps the greatest protection afforded the individual is his right to have access to his records, and to control the transfer of any personal data from one Federal agency to another for nonroutine purposes. Additionally, the bill will require the disclosure by every Federal agency of certain identifying characteristics about virtually all systems of records under their control, to insure that no "secret" Government system of records is created.

H.R. 16373 would also permit individuals access to civil court action against the Federal Government should their rights be violated. Provision is made for the awarding of actual damages to an individual, if the Government is shown to have acted willfully, arbitrarily, or capriciously in violating the provisions of this act. Criminal and civil penalties could be levied against individuals who disseminate or seek to obtain personal information contained in Federal files.

Mr. Chairman, it is essential that the Federal Government, the largest repository of personal records in the country, do everything possible to safeguard these files and to protect the rights of every American citizen. H.R. 16373 contains these safeguards and protections. I will support this measure and I urge my colleagues to do likewise.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 16373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Act of 1974".

SEC. 2. (a) The Congress finds that—

(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

(2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

(4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.

(b) The purpose of this Act is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—

(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

(5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and

(6) be subject to civil suit for any damages which occur as a result of willful, arbitrary or capricious action which violates any individual's rights under this Act.

SEC. 3. Title 5, United States Code, is amended by adding after section 552 the following new section:

"§ 552a. Records maintained on individuals

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'agency' means agency as defined in section 552(e) of this title;

"(2) the term 'individual' means a citizen of the United States or an alien lawfully admitted for permanent residence;

"(3) the term 'maintain' includes maintain, collect, use, or disseminate;

"(4) the term 'record' means any collection or grouping of information about an individual that is maintained by an agency and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual;

"(5) the term 'system of records' means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

"(6) the term 'statistical research or reporting record' means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13.

"(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

"(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

"(2) for a routine use described in any rule promulgated under subsection (e)(2)(D) of this section;

"(3) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

"(4) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

"(5) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

"(6) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

"(7) pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon the disclosure notification is transmitted to the last known address of the individual; or

"(8) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, or any joint committee of Congress or subcommittee of any such joint committee.

"(c) ACCOUNTING OF CERTAIN DISCLOSURES.—Each agency, with respect to each system of records under its control shall—

"(1) except for disclosures made under subsection (b)(1) of this section or disclo-

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sures to the public from records which by law or regulation are open to public inspection or copying, keep an accurate accounting of—

"(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

"(B) the name and address of the person or agency to whom the disclosure is made;

"(2) retain the accounting made under paragraph (1) of this subsection for at least five years after the disclosure for which the accounting is made;

"(3) except for disclosures made under subsection (b)(6) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

"(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency within two years preceding the making of the correction of the record of the individual, except that this paragraph shall not apply to any record that was disclosed prior to the effective date of this section or for which no accounting of the disclosure is required.

"(d) ACCESS TO RECORDS.—Each agency that maintains a system of records shall—

"(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him to review the record and have a copy made of all or any portion thereof in a form comprehensive to him;

"(2) permit the individual to request amendment of a record pertaining to him and either—

"(A) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

"(B) promptly inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review by the agency of that refusal, and the name and business address of the official within the agency to whom the request for review may be taken;

"(3) permit any individual who disagrees with the refusal of the agency to amend his record to request review of the refusal by the official named in accordance with paragraph (2)(B) of this subsection; and if, after the review, that official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency; and

"(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and, upon request, provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

"(e) AGENCY REQUIREMENTS.—Each agency that maintains a system of records shall—

"(1) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

"(A) which Federal statute or regulation, if any, requires disclosure of the information;

"(B) the principal purpose or purposes for which the information is intended to be used;

"(C) other purposes for which the information may be used, as published pursuant to paragraph (2)(D) of this subsection; and

"(D) the effects on him, if any, of not providing all or any part of the requested information;

"(2) publish in the Federal Register at least annually a notice of the existence and character of the system of records, which notice shall include—

"(A) the name and location of the system;

"(B) the categories of individuals on whom records are maintained in the system;

"(C) the categories of records maintained in the system;

"(D) each routine purpose for which the records contained in the system are used or intended to be used, including the categories of users of the records for each such purpose;

"(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

"(F) the title and business address of the agency official who is responsible for the system of records;

"(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him; and

"(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content;

"(3) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination; and

"(4) maintain no record concerning the political or religious belief or activity of any individual, unless expressly authorized by statute or by the individual about whom the record is maintained.

"(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

"(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

"(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

"(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

"(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means the head of the agency may deem necessary for each individual to be able to exercise fully his rights under this section; and

"(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection in a form available to the public at low cost.

"(g)(1) CIVIL REMEDIES.—Whenever any agency (A) refuses to comply with an individual request under subsection (d)(1) of this section, (B) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of records and consequently a determination is made which is adverse to the individual, or (C) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

"(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (j) or (k) of this section, and the burden is on the agency to sustain its action.

"(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

"(3) In any suit brought under the provisions of subsection (g)(1)(B) or (C) of this section in which the court determines that the agency acted in a manner which was willful, arbitrary, or capricious, the United States shall be liable to the individual in an amount equal to the sum of—

"(A) actual damages sustained by the individual as a result of the refusal or failure; and

"(B) the costs of the action together with reasonable attorney fees as determined by the court.

"(4) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to the establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

"(h) RIGHTS OF LEGAL GUARDIANS.—For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

"(i)(1) CRIMINAL PENALTIES.—Any officer or employee of the United States, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this secton or by rules or regulatons established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be fined not more than $5,000.

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"(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be fined not more than $5,000.

"(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, to exempt any system of records within the agency from any part of this section except subsections (b) and (e)(2)(A) through (F) if the system of records is—

"(1) maintained by the Central Intelligence Agency; or

"(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

"(k) SPECIFIC EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(2) (G) and (H), and (f) of this section if the system of records is—

"(1) subject to the provisions of section 552(b)(1) of this title;

"(2) investigatory material compiled for law enforcement purposes, except to the extent that the material is within the scope of subsection (j)(2) of this section or is open to public inspection under the provisions of section 552(b)(7) of this title;

"(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18; or

"(4) required by statute to be maintained and used solely as statistical research or reporting records.

"(l)(1) ARCHIVAL RECORDS.—Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

"(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section.

"(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be subject to all provisions of this section except subsections (c)(4); (d)(2), (3), and (4); (e)(1), (2)(H) and (3); (f)(4); (g)(1)(B) and (C), and (3).

"(m) ANNUAL REPORT.—The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section.".

SEC. 4. The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552a. Records about individuals."

immediately below:

"552. Public information; agency rules, opinions, orders, and proceedings.".

SEC. 5. The amendments made by this Act shall become effective on the one hundred and eightieth day following the date of enactment of this Act.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENTS OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer two amendments, and I ask unanimous consent that my amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MOORHEAD of Pennsylvania: Page 22, lines 19 and 20, strike out "in any rule promulgated".

Page 27, line 8, immediately after "(2)" insert "subject to the provisions of paragraph (5) of this subsection,".

Page 28, line 12, strike out "and"; on line 16, strike out the period and insert in lieu thereof "; and"; and immediately after line 16, insert the following new paragraph:

(5) at least 30 days prior to publication of information under paragraph (2)(D) of this subsection publish in the Federal Register notice of the use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with. They have been distributed to the minority side, and I do not think further reading of the amendments is necessary.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(Mr. MOORHEAD of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, this amendment has also been discussed in advance with the minority side. Its purpose is to tighten up the part of the bill under which a Federal agency makes its determination as to the "routine purpose for which records contained in a system of records are to be used or intended to be used. As I explained in earlier remarks, "routine" uses of personally identifiable information permit an agency to transfer such records without obtaining the individual's consent—within the agency or between agencies—in the "routine" conduct of Government business.

It is essential, however, that this "routine" authority is not abused so as to circumvent the basic purposes of this law. Under the present language of the bill, an agency—under subsection (e)—may publish in the Federal Register a list of each "routine purpose" for which records in an information system are used. The danger is that there is no check on the agency—except congressional oversight—as to what might be called a "routine purpose." A bureaucrat might be tempted to include a "nonroutine" use in the definition of "routine" and subvert the safeguards set up for individual privacy in this bill.

Therefore, the purpose of these amendments is to subject the agency determination to public scrutiny by providing 30 days for interested parties to submit to the agency after publication in the Federal Register written data, views, or arguments as to its interpretation of "routine purpose." I believe that this amendment strengthens the bill against potential bureaucratic abuses and urge that it be adopted.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding to me. I want to say that the gentleman from Pennsylvania has furnished me with a copy of the amendments, and I support the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of Pennsylvania: On page 33, line 2, after "(F)" insert "and (i)".

On page 30, line 24, strike "(j) or".

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I will be brief in explaining this amendment, which has been previously discussed with the minority side. Very simply, it tightens up a part of the bill where a loophole might exist. It provides that if the head of an agency utilizes the authority under subsection (j) of the bill to exempt a system of records from this law, such action shall

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not exempt the particular agency from safeguards to the public against abuse of such exemption authority as provided in subsection (i), imposing criminal penalties for violations of the act.

I trust that the amendment will be adopted.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding to me. I do support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 34, in line 14, strike out the word "or";

In line 16, strike out the period and insert in its place a semi-colon; and

After line 16, insert the following:

"(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

"(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

"(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence."

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, a copy of this amendment has been furnished to the majority, and since the amendment has not been read, I would like to briefly describe its three purposes. This adds in the specific exemption, subsection (k)(3) exemptions not found in the bill.

The first is investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualification for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of the source that was a confidential source, promised confidentiality.

As I said during the general debate, the Washington Post this morning, in an editorial, incorrectly described this as closing the files entirely. The files will be open. The individual will have access to the files and to the information contained therein. But we will protect the confidentiality of statements that have been given in the past on a promise of confidentiality, express or implied, and will protect in the future the confidentiality of statements that were given by someone with an express promise of confidentiality.

The second part of the amendment will exempt testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

This amendment has been requested by the Civil Service Commission. Under the bill, without this exemption, each test that is given—and there are hundreds of such tests that have been prepared by the Civil Service Commission—would be available to any individual who took the test—the questions and the answers. That test then would be compromised and could never be used again. The Civil Service Commission would have to prepare a whole new test the next time a test in that area was given. This would be an unnecessary expense without enhancing the privacy of any individual. I think this portion of the amendment is certainly warranted.

Lastly, my amendment provides a specific exemption for evaluation material used to determine potential for promotion in the Armed Services, but again, only to the extent that it is necessary to protect a confidential source.

As to the first and third portions of this amendment, the protection of confidential sources, I think it is very interesting that the House today overrode a veto of amendments to the Freedom of Information Act, and that Freedom of Information Act gets into the same area of information.

Listen to the report of the conference committee relative to the Freedom of Information Act. It says:

In every case where the investigatory records sought were compiled for law enforcement purposes, either civil or criminal in nature, the agencies can withhold the names, addresses and other information that would reveal the identity of a confidential source who furnished the information.

So there, in that act, we saw the need to protect the confidential source. I think we should do likewise in this act.

Mr. Chairman, the President on October 9th issued a statement endorsing the legislation before us. He had in that statement, however, one reservation. He said:

H.R. 16373, the Privacy Act of 1974, has my enthusiastic support except for the provisions which will allow unlimited individual access to records vital to determining eligibility and promotion in the Federal service and access to classified information.

I strongly urge a floor amendment permitting workable exemptions to accommodate these situations. This is the amendment that will meet the President's concern, and I think it is a valid concern.

There is one last observation that I would like to make. I have here a copy of the decision in the case of Koch against the Department of Justice. It is a decision of the District Court of the District of Columbia, which is considered one of the more liberal courts, and the judge was Judge Gerhard Gesell, who is considered one of the more liberal judges.

I would like to read just one or two excerpts from the decision.

The judge says:

Background files on Congressman Bingham which were compiled during investigations into his eligibility for certain high Government posts. Such employment checks are routine, fully authorized, and essential to the maintenance of integrity in government service.

The court later in another part says as follows:

Plaintiffs' narrower interpretation of that exemption is unjustified, since it would require disclosure of highly confidential information supplied to Bureau investigators. In order to insure such confidentiality, FBI files may be withheld if law enforcement was a significant aspect of the investigation.

The judge goes on further to say:

This is true even if the laws being enforced were regulatory rather than criminal in nature.

Then the judge later says:

Even inactive investigatory files may have to be kept confidential in order to convince citizens that they may safely confide in law enforcement officials.

Mr. Chairman, unless we adopt this amendment, confidential statements given to investigators in the past will be made available to the persons about whom the investigations are being made.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, there are literally hundreds of thousands of people across this country, many Members of Congress included, who in the past have given confidential statements relative to people who are being considered for high Government posts. These confidential statements will be opened up to the individual who is being investigated if the bill passes without amendment—and, I think equally important, in the future we would not be able to conduct meaningful investigations into such matters as the appointment of a Vice President and the appointment of members of the courts, including the Supreme Court, District Courts, and so forth, unless we have limited ability to promise confidentiality where it is necessary to get candid information concerning individuals.

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Mr. Chairman, I hope that my amendment will be supported.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield briefly to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, do I understand that the gentleman's amendment would open the files, as far as the background statements themselves are concerned, as long as the identity of the person making those statements was preserved?

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his question. The gentleman is exactly right.

The information, derogatory or otherwise, will be made available to the individual. The only portion that will be kept confidential is the name of the one who has given the information in confidence, or such information as might lead to his identity.

Mr. SMITH of New York. I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I would like, of course, to say, not being a lawyer, that I find myself at somewhat of a disadvantage, with the very complexity of this bill.

I recognize the laudable purpose of it. I do intend to vote for the bill. In committee I did vote with the gentleman for this amendment, or one very close to it. There seems to be a difference of opinion as to whether this is the exact amendment or not. I expect to vote for it at this time.

I think that if we do reveal the sources of confidential information, after we have or an agency has obtained the information under the promise of protecting the source, it would imperil the access to information which we should have.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(On request of Mr. HOLIFIELD and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. HOLIFIELD. Mr. Chairman, I also believe that there might be a great danger, both to the Government and to the individual involved who gave that information, if the source was revealed.

Therefore, I find myself in general agreement with this amendment. I voted for the amendment in committee, although we lost it in committee, as the gentleman remembers. It does seem to me that it is a protective amendment.

We are skating on thin ice, between freedom of information and privacy of information, and I think the extra care that this would give or the extra protection it would give to sources that might be vital to the Government in many fields is worthy of consideration.

Mr. Chairman, I would hope that the chairman of the subcommittee, unless there is a very strong reason, which he will undoubtedly express if there is such a reason, might be able to accept this amendment.

Mr. ERLENBORN. Mr. Chairman, I thank the gentelman for his support.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I will say to the chairman of the full committee that I felt that I am bound by the vote of the full committee, which, as I recall, was 22 to 11 not to accept the amendment offered by the gentleman from Illinois.

I have tried to negotiate portions of this matter with him, but unsuccessfully, even though we have been very successful in reaching agreements on many other pieces of legislation.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding. I would like to ask him a question. I can appreciate what the gentleman is trying to do, and that is to protect the parties' sources of information, but is there anywhere any protection to eliminate the inclusion of vicious rumors, subjective opinions, false statements, or honest mistakes that are in the records that are supplied by these parties?

Mr. ERLENBORN. Yes. I would point out that the information in the file will be made available quite generally, whether it is derogatory, defamatory, or whatever. We will only protect the confidential source.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Thirty-six Members are present, evidently not a quorum.

In view of the inoperability of the electronic device, the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 636]

Ashley	Fraser	Parris
Baker	Fulton	Patman
Bergland	Gibbons	Pike
Bingham	Ginn	Poage
Blatnik	Goodling	Podell
Boggs	Grasso	Quie
Brasco	Gray	Rarick
Breaux	Green, Oreg.	Reid
Broomfield	Hanrahan	Riegle
Brotzman	Hansen, Wash.	Roncallo, N.Y.
Burton, John	Hébert	Rooney, N.Y.
Burton, Phillip	Heckler, Mass.	Rosenthal
Camp	Jarman	Runnels
Carey, N.Y.	Jones, Ala.	Sandman
Chappell	Jones, N.C.	Shoup
Clay	Kuykendall	Stark
Cohen	Leggett	Steele
Conable	Luken	Steiger, Ariz.
Conlan	McEwen	Teague
Coughlin	McKinney	Tiernan
Cronin	Madigan	Ullman
Davis, Ga.	Martin, Nebr.	Veysey
Diggs	Mathias, Calif.	Waldie
Dingell	Mayne	Wilson,
Downing	Melcher	Charles H.,
Drinan	Mitchell, Md.	Calif.
Esch	Murphy, Ill.	Wyatt
Eshleman	Murphy, N.Y.	Wyman
Evans, Colo.	Nichols	Young, Alaska
Foley	Obey	Zion
Ford	O'Hara	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16373, and finding itself without a quorum, he had directed the roll to be called, when 344 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

I oppose the amendment because I think it makes second-class citizens out of some 4½ million Government employees, civil and military. And I wish to report to the membership that the amendment is opposed by the Government Employees Council, AFL–CIO.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. At this time I yield to my colleague on the committee, the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

I also am strongly opposed to this amendment, because what it does is set up a whole new exemption and write a provision into law which does not now exist. Otherwise there would be no reason for the amendment.

The amendment specifically exempts from the provisions of this bill identity or source of information. There is no such exemption now in the law.

Other Members, just as I have been, have been asked many, many times to give information. Never have I had any Government agency or agent say to me, "Sir, the information you give me is classified" or "The information will be kept confidential."

Mr. Chairman, what the pending amendment would do is write this tremendous loophole into the statutes of this country and change the complete thrust of this bill. That is what this amendment does, is to give the applicant the right to look at information; the burden is then on him to prove his innocence without ever knowing who the person was or what the source was of the adverse or derogatory information.

Mr. Chairman, this amendment destroys the principal purpose of this bill.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I might add that should there be any serious question of the need to protect the confidentiality of informants' identity for law enforcement activities or for national security purposes, that identity would be protected under specific exemptions in the bill which we have before us.

So that the only purpose that the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) would

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serve would be, as has been stated by both of my colleagues on the committee, to exempt millions of civilian employees and military employees from the safeguard provisions of this bill, which are so desperately needed. The need for privacy protections for these particular groups has been amply documented by a GAO report which is in our committee and which the gentleman is well aware of.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, in the interest of brevity, I yield back the balance of my time and I hope that a vote can be called for promptly.

Mr. GOLDWATER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise with certain reservations with regard to this amendment. I likewise am greatly concerned with protecting the rights of applicants for civil service employment and with insuring that the applicant have access to information about him that is furnished by third parties. I likewise recognize the difficult question regarding policy matters contained in this particular bill, in that, if taken in its true sense, open up disclosure of third-party information.

I would like at this point to ask the author of the amendment (Mr. ERLENBORN) a few questions if he would be kind enough to respond.

Mr. ERLENBORN, what in this provision provides for the applicant to rebut or to countermand any vicious rumors or subjective opinions or false statements or honest mistakes taken from third parties about an individual?

Mr. ERLENBORN. If the gentleman will yield, the bill itself provides for the first time the right of access by an individual to records maintained concerning himself or herself, and the bill provides that if the individual believes that the information is inaccurate, he has a right to demand that the information be corrected. This is as to all records generally and can be applicable to these free employment and security investigation files as well. Therefore, the application of the bill—not the amendment—but the application of the bill is such that it provides this right to the individual to demand that a file be made accurate if he considers it to be inaccurate.

Mr. GOLDWATER. How will the applicant know that there is included in his file information from a third party or confidential source?

Mr. ERLENBORN. Will the gentleman yield?

Mr. GOLDWATER. Yes, I yield to the gentleman.

Mr. ERLENBORN. As provided in my amendment, the information contained in the file will be made available to the individual about whom the file has been maintained.

Only to the extent that the confidential source would be compromised would we keep the name of the individual who is the confidential source or such information as would identify him from the applicant. That information would be kept from the individual seeking information. Otherwise, all the rest of the contents of the file, including any of this derogatory information, would be made available to the jobseeker.

Mr. GOLDWATER. Is it your understanding that your amendment notwithstanding, the applicant would be allowed to file with this information obtained from a confidential source his own version or his own rebuttal or perhaps his own denial of that accusation or erroneous information?

Mr. ERLENBORN. Yes. Under the terms of the bill itself, that would be a remedy available to the individual about whom the file was kept.

Mr. GOLDWATER. One other question: It is my understanding that promises of confidentiality have in most cases only been made on the strength of bureaucratic authority as to most Civil Service records and that there is no statutory authority for agencies to grant confidentiality or protection; am I correct?

Mr. ERLENBORN. If the gentleman will yield, in the past, of course, an individual never had an opportunity to go into his security clearance file or into his free employment file.

Therefore, the question really never arose.

In the past there has been lawfully express and implied promises of confidentiality given to those who have made statements to investigators.

The function of this bill, if it is not amended by the Erlenborn amendment, will be to open up all of those old files so that those statements that were given in confidence will now be made available to the individual.

The gentleman from Florida says that he has never had any promises, express or implied. In that case, his name will be made available if he is one who has given such a statement, because the only thing that would be protected are those confidential sources.

Mr. GOLDWATER. Obviously, it appears by this language in the amendment that we are in essence legitimatizing this practice.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. GOLDWATER was allowed to proceed for 1 additional minute.)

Mr. GOLDWATER. One last question, Mr. Chairman, and that is: This gives discretion to the agency to arbitrarily decide which information it will supply, and which information it will withhold. The question that occurs to me is, Where is the check and balance? It is the intention of this committee that information should be disclosed to an applicant or to an individual upon request, but, if there is this discretion within the agency, then where is the check and the balance? Where is the impartial review, the in camera inspection to determine whether in fact all information is included, or whether in fact third parties should perhaps be made available?

Mr. ERLENBORN. If the gentleman will again yield, I think the general access to the courts, as we provided in the bill, would provide that. However, let me make this one additional point, and that is that many Members of this House, myself not included, but many Members of the House have sponsored the newsmen's shield bill, realizing the great advantage that there is in confidential sources, and it will protect such sources of newsmen and newspapers, and it would shield them so that they would not have to reveal their sources and, if we pass that legislation we would find that possibly just wild rumors could be printed in the paper, and the source of the information to the news media could not be revealed.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by clerks, and there were—ayes 192, noes 177, not voting 65, as follows:

[Roll No. 637]

AYES—192

Abdnor	Fisher	Mahon
Anderson, Ill.	Flowers	Mallary
Andrews, N. Dak.	Flynt	Mann
Archer	Forsythe	Maraziti
Arends	Fountain	Martin, Nebr.
Armstrong	Frelinghuysen	Martin, N.C.
Ashbrook	Frenzel	Mayne
Bauman	Frey	Milford
Beard	Fuqua	Miller
Bell	Gettys	Minshall, Ohio
Bevill	Ginn	Mizell
Biester	Goodling	Mollohan
Blackburn	Gray	Moorhead, Calif.
Bray	Gross	Myers
Breaux	Grover	Nedzi
Brinkley	Gubser	Nelsen
Brotzman	Gude	O'Brien
Brown, Mich.	Guyer	Patten
Brown, Ohio	Hammer-schmidt	Pettis
Broyhill, N.C.	Hansen, Idaho	Pike
Broyhill, Va.	Hastings	Powell, Ohio
Burgener	Hays	Preyer
Burke, Fla.	Heckler, Mass.	Price, Tex.
Burleson, Tex.	Heinz	Pritchard
Butler	Henderson	Quie
Byron	Hillis	Quillen
Carter	Hinshaw	Randall
Casey, Tex.	Hogan	Regula
Clancy	Holifield	Rhodes
Clausen, Don H.	Holt	Roberts
Clawson, Del	Horton	Robinson, Va.
Cleveland	Hosmer	Robison, N.Y.
Collier	Huber	Rousselot
Collins, Tex.	Hunt	Ruppe
Conte	Hutchinson	Satterfield
Coughlin	Ichord	Scherle
Crane	Jarman	Schneebeli
Daniel, Dan	Johnson, Colo.	Sebelius
Daniel, Robert W., Jr.	Johnson, Pa.	Shriver
Davis, S.C.	Jones, Okla.	Shuster
Dellenback	Jones, Tenn.	Sikes
Denholm	Jordan	Skubitz
Dennis	Kemp	Smith, N.Y.
Derwinski	Ketchum	Snyder
Devine	Lagomarsino	Spence
Dickinson	Landgrebe	Stanton, J. William
Downing	Latta	Steed
Duncan	Lent	Steele
du Pont	Lott	Steiger, Ariz.
Edwards, Ala.	Lujan	Steiger, Wis.
Erlenborn	McClory	Stratton
Esch	McCloskey	Stubblefield
Findley	McCollister	Symms
Fish	McDade	Talcott
	McEwen	Taylor, Mo.
	McKay	

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Taylor, N.C.	Wampler	Winn
Thomson, Wis.	Ware	Wydler
Thone	Whalen	Wylie
Treen	White	Young, Alaska
Ullman	Whitehurst	Young, Fla.
Vander Jagt	Widnall	Young, Ill.
Veysey	Wiggins	Young, S.C.
Waggonner	Williams	Zion
Walsh	Wilson, Bob	Zwach

NOES—177

Abzug	Gibbons	Passman
Adams	Gilman	Pepper
Addabbo	Goldwater	Perkins
Alexander	Gonzalez	Peyser
Anderson, Calif.	Green, Pa.	Pickle
	Gunter	Price, Ill.
Andrews, N.C.	Haley	Rangel
Annunzio	Hamilton	Rees
Ashley	Hanley	Reid
Aspin	Hanrahan	Reuss
Badillo	Hansen, Wash.	Rinaldo
Bafalis	Harrington	Rodino
Barrett	Hawkins	Roe
Bennett	Hechler, W. Va.	Rogers
Biaggi	Helstoski	Roncalio, Wyo.
Bingham	Hicks	Rooney, Pa.
Boland	Holtzman	Rose
Bolling	Howard	Rosenthal
Bowen	Hudnut	Rostenkowski
Brademas	Hungate	Roush
Breckinridge	Johnson, Calif.	Roy
Brooks	Karth	Roybal
Brown, Calif.	Kastenmeier	Ryan
Buchanan	Kazen	St Germain
Burke, Calif.	Kluczynski	Sarasin
Burke, Mass.	Koch	Sarbanes
Burlison, Mo.	Kyros	Schroeder
Burton, John	Leggett	Selberling
Burton, Phillip	Lehman	Shipley
Carney, Ohio	Litton	Sisk
Chisholm	Long, La.	Slack
Clay	Long, Md.	Smith, Iowa
Collins, Ill.	Luken	Stanton, James V.
Conyers	McCormack	
Corman	McFall	Stark
Cotter	McSpadden	Steelman
Culver	Macdonald	Stephens
Daniels, Dominick V.	Madden	Stokes
	Matsunaga	Studds
Danielson	Mazzoli	Sullivan
de la Garza	Meeds	Symington
Delaney	Melcher	Thompson, N.J.
Dellums	Metcalfe	Tiernan
Dent	Mezvinsky	Traxler
Diggs	Mills	Udall
Dingell	Minish	Van Deerlin
Donohue	Mink	Vander Veen
Dorn	Mitchell, N.Y.	Vanik
Drinan	Moakley	Vigorito
Eckhardt	Montgomery	Whitten
Edwards, Calif.	Moorhead, Pa.	Wilson, Charles, Tex.
Eilberg	Morgan	
Evans, Colo.	Mosher	Wolff
Evins, Tenn.	Moss	Wright
Fascell	Murphy, N.Y.	Yates
Flood	Murtha	Yatron
Foley	Natcher	Young, Ga.
Ford	Nix	Young, Tex.
Fraser	Obey	Zablocki
Gaydos	O'Hara	
Giaimo	Owens	

NOT VOTING—65

Baker	Grasso	Podell
Bergland	Green, Oreg.	Railsback
Blatnik	Griffiths	Rarick
Boggs	Hanna	Riegle
Brasco	Harsha	Roncallo, N.Y.
Brocmfield	Hébert	Rooney, N.Y.
Camp	Jones, Ala.	Runnels
Carey, N.Y.	Jones, N.C.	Ruth
Cederberg	King	Sandman
Chamberlain	Kuykendall	Shoup
Chappell	Landrum	Staggers
Clark	McKinney	Stuckey
Cochran	Madigan	Teague
Cohen	Mathias, Calif.	Thornton
Conable	Mathis, Ga.	Towell, Nev.
Conlan	Michel	Waldie
Cronin	Mitchell, Md.	Wilson, Charles H., Calif.
Davis, Ga.	Murphy, Ill.	
Davis, Wis.	Nichols	Wyatt
Dulski	O'Neill	Wyman
Eshleman	Parris	
Froehlich	Patman	
Fulton	Poage	

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise to see if I can determine how many more amendments there are expected to be offered, to see if it would be possible to arrive at an agreement on time for closing debate on this legislation.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, we just checked at the minority desk as to how many amendments we are aware of. There are about 12 or 13, not all of them are contested; probably 4 or 5 are contested.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I will not make my unanimous-consent request at this point.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 31, line 5, strike out line 5 and all that follows through line 13 and insert in lieu thereof the following:

"(3) In any suit brought under the provisions of subsection (g)(1) (B) or (C) of this section in which the court determines—

"(A) that the agency has refused or failed to comply with any of the provisions of this section, or any rule promulgated thereunder, the United States shall be liable to the individual in an amount equal to the sum of—

"(i) actual damages sustained by the individual as a result of the refusal or failure; and

"(ii) the costs of the action together with reasonable attorney fees as determined by the court; or

"(B) that the agency's refusal or failure has been willful, arbitrary, or capricious, the United States shall be liable to the individual in an amount equal to the sum of—

"(i) actual damages sustained by the individual as a result of the refusal or failure;

"(ii) punitive damages allowed by the court; and

"(iii) the costs of the action together with reasonable attorney fees as determined by the court."

(Mr. FASCELL asked and was given permission to revise and extend his remarks.)

Mr. FASCELL. Mr. Chairman, what my amendment does is to restore to the bill language which was in the bill in subcommittee, stricken out in the full committee, dealing with damages, the right of damages and remedies available to the individual.

If the members of the committee will follow me, in the present bill on page 31 with the section we are talking about, they will find the remedies in the lawsuit there for actual damages sustained by the individual, together with the court costs and reasonable attorney fees.

The Members will notice, however, that it is predicated only in those cases where there is willful, arbitrary or capricious action by the agency. There, the Members will find a complete departure from ordinarily understood law, tort law. A remedy that would be available to an individual if he were damaged in this case, we limit his recovery to actual damages. We require him to prove that he was damaged by a willful, arbitrary, or capricious violation, the kind of burden which is a very difficult burden, I assure the Members, as a lawyer. The Members who are lawyers know that, where we place that kind of a burden only in those cases where we seek punitive damages.

So, what my amendment would do would be to restore the right of actual damage in those cases where there is a refusal or a failure to comply with the law, aside from whether it is willful, capricious or arbitrary; just sheer negligence, whether it is inadvertent or not. The fact that there is a refusal or an inability or a failure to comply with the law then will allow the individual to redress for actual damages and the costs of the action.

Then, what we do in those cases where we have willful, arbitrary or capricious action by an agency is to allow recovery for actual damage or punitive damage. So, what this amendment does, to recap, is to take the reasonable remedy, restore the rights to the individual who is actually damaged in the cases where, in the present bill now, it is only actual damages in cases of willful, arbitrary or capricious action. My amendment would give the person the right to recover actual damages in cases where there is a failure to comply with the law. It would also give him punitive damages in those cases where there is willful, arbitrary or capricious action by the agency.

Mr. BUTLER. Mr. Chairman, will the gentleman yield for a question?

Mr. FASCELL. Yes.

Mr. BUTLER. My understanding is that, in effect, what you are providing for are punitive damages in case of willful, arbitrary, or capricious action of the United States in withholding information?

Mr. FASCELL. The gentleman is correct. That is one part of the amendment.

Mr. BUTLER. Can the gentleman cite me a precedent in the statutes in the United States, or has the United States adopted a low holding itself open for willful punitive damages? Can the gentleman cite me a statute where any nation of the world has held itself open for punitive damages in the statute?

Mr. FASCELL. Frankly, I do not have that citation. But the gentleman knows where one has a willful, capricious, arbitrary action by the Government, and one is trying to protect the rights of the individual, mine or the gentleman's, it seems to me that leaving it to the court to decide whether or not there ought to be punitive damages under our system—I am perfectly willing to leave it to the system. We do it in all kinds of cases with respect to the individual redress against the Government of the United States.

Mr. BUTLER. May I fairly observe there is no sovereignty in the world that exposes itself to punitive damages by a statute of this nature?

Mr. FASCELL. I thank the gentleman for his observation.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding. I think we have made an exhaustive study of the statutes of this Nation, and if we are to adopt by this amendment punitive damages, it

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would be the first time in history that the United States has made itself subject to punitive damages for any cause or in any case. We have adopted six or seven provisions by statute to impose attorney's fees against the United States, but this would be the first time for punitive damages.

I would like to ask the gentleman in the well, is it not true that there would be no way of ascertaining in advance of any one year, when this Congress is ascertaining the budget, what might possibly be the amount of damages that might be awarded?

Mr. FASCELL. The gentleman is absolutely correct. And we have the same problem in respect to awards made in condemnation cases. We have the same problem.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak against this amendment, and I would like to call the attention of my colleagues to the very real problem that the amendment imposes on a government servant. We have just overriden a presidential veto of the Freedom of Information Act, and we have put in that statute extremely strong and rigorous provisions, penalizing a Government agnecy and an employec who may improperly withhold information from the public or from the Congress or from other Federal employees. We have wanted to penetrate the veil of secrecy which Government agencies and Government bureaucrats have been accustomed to throw around the protection of information.

If we enact this amendment however, we will, in effect, be placing upon the Government bureaucrat the choice that if he reveals information improperly, he may subject his agency to punitive damages. If he withholds the information, on the other hand, he is subject only to ordinary damagcs, attorneys' fees, and costs.

Government employees, faced with that choice, faced with the imposition of punitive damages if they improperly release information, as against only attorneys' fees and costs if they improperly withhold will be tempted to withhold. We thus endanger that great principle which we have just established when we overrode the presidential veto of the Freedom of Information Act Amendments.

Mr. FASCELL. Will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman.

Mr. FASCELL. Let us talk about my problem. You are a Government employee and I want some information from you, is there any hardship on you or any burden to make that information available to me?

Mr. McCLOSKEY. I may violate the Freedom of Information Act if I do not reveal it. Yet I may be subject to punitive damages if I do.

Mr. FASCELL. No, the punitive damage language only says, "willful, capricious, or arbitrary."

Mr. McCLOSKEY. Mr. Chairman, I do not think any of us who have practiced law would care to stake our future and our future careers on what some court might determine to be "willful, capricious, and arbitrary."

Mr. FASCELL. Mr. Chairman, will the gentleman yield further?

Mr. McCLOSKEY. Certainly.

Mr. FASCELL. Then I would suggest to the gentleman that he should make the information completely available to them.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman has spoken of the term "willful, arbitrary, and capricious."

Can the gentleman give me any reason in the world why I, as a person who has been injured, should not recover actual damages from a dumb but ineffective bureaucrat, since I can get them from one who acts willfully?

One can be hurt just as badly by a dumb, well intentioned person as one can by an intelligent, conniving one, can he not?

Mr. McCLOSKEY. Mr. Chairman, let me respond to the gentleman in this way: that we are trying to balance two great interests here. We are trying to balance the necessity of balancing the budget, and we are trying to protect the Government from undue liability.

I think it is wrong to make the Government of the United States and this congressional budget subject to an absolutely incalculable amount of liquidated damages. If we had a hundred lawsuits, and if we had a hundred verdicts of $1 million each, there would be no guarantee in any way that this Congress could protect itself against that liability. It seems to me, when we balance the rights of the individual against the Government, that to add punitive damages and to set this kind of a precedent is an unfortunate mistake. It would be the first time in history this has occurred.

This would be singling out invasion of privacy as a particular right of an individual against the Government, a right that would weigh heavier than all other rights.

We have just seen a Presidential veto sustained in the case of an individual who could not recover damages against the Government in an ordinary lawsuit. Why should we make invasion of privacy a special right with this extraordinary remedy?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. McCLOSKEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, aside from the point the gentleman is making with respect to punitive damages, the question I am raising is that this amendment is the only vehicle that would correct the situation, because actual damages are not available to an injured party because the person who hurt him did not do so intentionally.

Is that not what the gentleman reads in the original language, and is that not corrected by the amendment?

Mr. McCLOSKEY. Mr. Chairman, I do not believe that the individual is denied actual damages if he can prove them. In cases of this kind, of course, it is quite often difficult to prove actual damages, but that is not necessarily a reason to establish the extraordinary remedy of punitive damages.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I wish to speak only briefly. I simply wish to point out, if I understand the amendment correctly, the thrust of the first part of the amendment is to avoid what seems to me to be a terrible error in the bill, and that is this: that a person who is injured by virtue of a mistake unintentionally made by a bureaucrat has no redress for that injury.

Will the author of the amendment inform me whether I am correct on that?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, the gentleman from Texas is absolutely correct.

That provision is totally lacking in the bill, and that is what this amendment provides.

If the gentleman will yield further, I would like to respond to some of the remarks made by the gentleman from California. The gentleman said that we would not know how much money this would cost and that there is no way to budget it. That is the same problem the Government is faced with in all claims bills. We do not at any time know how much money it will cost and how much should be budgeted. Of course, I feel after today that we may never pass any again, but nevertheless we are stuck with the same problem in that respect.

It seems to me that this matter can be spelled out in a different way. We would force these individuals to file private claims bills. After numerous bills were filed and after they tried to get redress, we would force these people to take action. As the gentleman from Texas has said, this should be a matter of legal right, and they should have the right to collect damages.

Mr. ECKHARDT. Mr. Chairman, it also seems to me that the fears concerning punitive damages are ill-founded. The court must agree in these situations that they should be granted. I feel that the courts would seldom grant them against the United States if the United States was acting properly.

Mr. FASCELL. The gentleman is absolutely correct.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I know that the erudite gentleman from Texas (Mr. ECKHARDT) is a lawyer. I have heard the gentleman discourse very learnedly on the floor of the House before. I understand the gentleman from

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Florida (Mr. FASCELL) also has legal training.

As I believe most of the lawyers here in the House know, it is a general principle of law that the Government, in exercising its governmental functions, is not liable.

In exercising the proprietary functions, the Government can be liable; but it would be, as has been pointed out by others debating this amendment, unprecedented to make Government liable for punitive damages, because there has been no precedent in the past for making any Government liable for punitive damages.

I would also like to point out that the bill, as it was being considered in committee, had a punitive damage section. The committee, in its wisdom, removed that by amendment before reporting the bill.

I hope the committee will be sustained on the floor and the amendment will be defeated.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that I cannot, as floor manager, accept this amendment, although as an individual Member I support it.

Permit me to explain my position. When the bill was reported by the subcommittee, it contained a punitive damages provision. However, this provision, by a close 18 to 14 vote in the full committee, was deleted.

Therefore, although I personally support the amendment, I do not feel, as floor manager, that I can argue in favor of the amendment.

Let me state to the Chair that after the action on this amendment, it is the intention of myself to move that the committee rise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was rejected.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill H.R. 16373 to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, had come to no resolution thereon.

U.S. DISTRICT JUDGE COMMENDED FOR OPPOSING DEPARTMENT OF JUSTICE ATTEMPT TO PREVENT PROSECUTION OF JAKE JACOBSEN FOR MAJOR CRIME

(Mr. FISHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, when the Department of Justice recently asked U.S. District Judge Robert M. Hill, in Dallas, to dismiss an indictment there against Jake Jacobsen, involving $825,000 in savings and loan funds, the judge very properly revolted. He insisted no valid grounds were presented and that the defendant should be made to answer for a crime of this magnitude.

There was no claim the charge against Jacobsen was not fully justified.

Then, when the district attorney, acting on orders from Washington, refused to prosecute, Judge Hill proceeded to appoint three members of the bar to do that job. But, believe it or not, so determined was Attorney General Saxbe's Department of Justice to protect Jacobsen against being tried for an $825,000 crime, it requested and obtained a stay order in the Fifth Circuit Court of Appeals—pending full review of the issue.

Mr. Speaker, ostensibly the dismissal request stemmed from a copout deal with Jacobsen under which the latter agreed to testify against John Connally involving a claim Connally had somehow misused $10,000 in milk funds in Washington.

Obviously, the Office of Special Prosecutor, headed at the time by Leon Jaworski, and Attorney General William Saxbe were determined to pay any price for testimony which would suit their needs. Jacobsen not only wangled a virtual pardon for an $825,000 major crime out of Saxbe and the Office of Special Prosecutor, but in their gleeful spirit of triumphant generosity they also, for good measure, agreed to forgo Federal prosecution of another felony pending against Jacobsen in Washington.

This will probably go down as the most lopsided and most incredible windfall ever accorded a man accused of a major crime.

It should be emphasized that there was no remote relationship—none whatever—between the misapplication of saving and loan funds in Texas and the Watergate investigation and related indictments in Washington. Therefore, the practice of plea bargaining, applicable to multiple offenses or degree of offenses, flowing out of a common transaction, has no application in the situation I have described.

Is it any wonder Judge Hill would not be a party to such a scandalous transaction? He is to be commended for his law-and-order attitude. In this day and time when so many treat crime so lightly, it is refreshing to have a judge who believes in upholding the dignity of the law.

Incidentally, Mr. Speaker, the big losers in the $825,000 savings and loan fund indictment reside in my district. The savings and loan company is located in my hometown. Those people are not interested in the high flights and poetry of Washington-based copouts. They want justice administered to the man accused of robbing them of their hard-earned money.

On last August 22 I wrote Attorney General Saxbe a letter in which I asked him the following two questions:

1. Specifically, what if anything was wrong with the Texas case, what are the legal grounds, to justify this extraordinary action of dismissal?

2. Is the proposed dismissal recommended by the U.S. District Attorney whose responsibility it would be to prosecute Jacobsen in the Texas case?

Mr. Speaker, that letter was written 3 months ago. Up to this time I have not received even the courtesy of an acknowledgement from the Attorney General.

The fact is there are in fact no legal grounds for dismissal, and the fact is the U.S. district attorney handling the $825,000 indictment did not initiate a request for dismissal.

Quite obviously, therefore, it would be embarrassing to the Attorney General to address himself to the two questions, with responsive and responsible answers.

NATIONAL USURY ACT OF 1974

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Missouri (Mr. ICHORD) is recognized for 60 minutes.

(Mr. ICHORD asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. ICHORD. Mr. Speaker, I shall of course not take the entire 60 minutes, but I have asked for this time so as to discuss a bill which I have introduced today, joined in by the gentleman from Pennsylvania (Mr. DENT) and the gentleman from Missouri (Mr. TAYLOR).

Mr. Speaker, the cost of borrowed money reached an all time high in 1974 since the time that banking reforms were first enacted in the 1930's. The average prime interest rate charged by banks doubled over a period of a mere 20 months, rising from 6 percent in January 1973 to 12 percent in August of 1974. Yields on residential mortgages rose from 7.49 percent in January of 1972 to 10.38 percent in September 1974, with a rapid rise beginning around August-September of 1973. And other interest rates have shot up on all types of loans as shown by table I in which Federal Reserve Board figures are given for the "most common" effective annual rate collected on loans over a period of time:

TABLE I.—INTEREST RATES CHARGED ON SELECTED TYPES OF BANK LOANS

Type of loan	Interest rate (percent per annum)		
	January 1972	August 1974	September 1974
Small short-term noninstallment loans to businesses	7.31	11.79	12.02
Farm production loans (1 yr or less maturity):			
Feeder cattle operations	7.55	10.88	10.78
Other farm production operating expenses	7.63	10.29	10.21
Consumer installment credit for:			
New automobiles (36 mo.)	10.26	11.15	11.31
Mobile homes (84 mo.)	10.94	11.71	11.72
Other consumer goods (24 mo.)	12.57	13.10	13.20
Other personal expenditures (12 mo.)	12.74	13.45	13.41
Credit card plans	17.11	17.21	17.17
Business loans—prime rate:			
To small businesses	NA	9.97	10.22
To large businesses	5.25	12.00	12.00

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heavy despite active promotion in the market.

(3) Holders of gold bullion, particularly in small amounts do not, in any practical sense, have a liquid investment. As a freely traded commodity there is always the risk of a substantial swing in the price. Over the past year the price of gold has made several short-run movements—down as well as up—of 15 percent or more. But even apart from the commodity price risk, there is a substantial gap between the buy-sell price necessarily quoted by dealers of gold in small quantities.

(4) Gold is an investment which gives no current return to the holder. At the present high level of interest rates this sacrifice is a considerable cost factor, particularly over an extended period of time.

(5) Investors in gold must take account of the very large stock of gold held in official reserves throughout the world. The United States alone holds about 276 million ounces, an amount several times larger than present annual world gold production. The possibility of using a portion of this reserve to satisfy new public demand is a factor that must be taken into account by any prudent investor.

(6) And finally, any banker contemplating gold dealing must recognize that he will face formidable competition from other sectors of the market, not to mention his fellow bankers. As a free commodity, gold in the coming year can be bought and sold by anyone. Whatever the extent of market demand the gold business is certain to be among the most highly competitive in the American economy. In this situation the profits to the average bank in gold sales are likely to be at best minor, even including a modest boost to the safe deposit rental business.

But even if the direct sale of gold turns out to be more of a cost burden rather than a source of revenue to banks, I doubt that our enterprising and innovative bankers will give up the game easily. For modern bankers the return of gold to commodity status in a sense turns the clock back to the 17th century when the goldsmiths of Lombard Street conceived the idea of issuing more and more paper receipts against less and less gold deposits and thereby established the basic principle of the modern banking system. But for American bankers of today there is a difference that should not be overlooked. Unlike the ancient Lombards, American bankers operate in an environment of long established and, on the whole, attentive federal and state regulatory authorities.

In assessing the gold market from a banker's viewpoint, the key point is that a free gold commodity market—with fluctuating prices determined by essentially unpredictable supply and demand—is a very recent historical phenomenon. As a practical matter the free gold market dates only from March 17, 1968 when the two-tier gold price came into being. For centuries prior to that date—the price of gold for anyone was rigidly fixed by political authorities based essentially on its monetary status. However, the one factor that has in the past distinguished gold from other commodities—a fixed trading price—has now gone by the board. The significance of this change, particularly for bankers, is profound. All of the banking traditions, institutional practices, regulations, and habits of thought pertaining to bank gold dealing, which have their roots in the long historical period prior to 1968, are largely irrelevant in the new environment. Gold is now a commodity priced in a free market and with a highly volatile recent price record. For banks, gold dealing under these conditions will be a wholly new activity for which the historical past offers no reliable guide—either for the bankers or the bank regulators. In this context we can assume that the banking authorities will be keeping a close watch on developments, and it would be reasonable to expect appropriate guidance will be forthcoming if the situation so warrants.

We will all note that Mr. Wolfe states that—

There is no residue of Government rules, regulations, guidelines or hints beyond those that would normally apply to business transactions in general. In short, the United States will have a gold market that is as free and open as in any country in the world.

Needless to say, this free-market economy is among the greatest strengths of our American system. I do not sell our American public short and I believe that the protection of this open and free market is the best protection of our system and ultimately of the individual citizen. I do not believe that the American public is so foolish as to be "fleeced, cheated, and defrauded" as easily as my colleague suggests. I am confident the American public will not be bamboozled by sleazy operators in the new gold market. I have great confidence in the American public to deal in this commodity as they have been dealing in other commodities, from precious gems to pork bellies, for many years.

I must say to my friend that I have a high regard for the innate shopping ability of the American consumer. That we will be offered a wide variety of gold ranging from certificates indicating ownership, to small bars, to bullion coins, to coins which are legal tender in other lands, will, I believe, again offer the American consumer the variety of choices to which he is entitled in this, as in any other market..

Regarding the allegation that no hearings were held on the question of private gold ownership, I would remind my friend that on numerous previous occasions over a period of years I have both formally and informally asked the distinguished chairman of our committee to hold such hearings.

The gentleman repeatedly asks that the Congress reassert its authority in this area. Of course, the Congress did—that is why the bill passed by such wide margins both here and in the other body. But a further point that deserves to be driven home is how can the Congress reassert its authority by giving the President the arbitrary authority to determine a date to permit private gold ownership? It is precisely this kind of congressional abdication which has, on the one hand, eroded the authority of the Congress over the years, and also denied the American citizens the right to own gold.

Mr. Speaker, I believe that the proper course in this matter lies not in returning to the executive branch the vast power it has exercised in this area for more than 40 years, but in returning to Congress yet another oversight responsibility—that of ruling on any effort to sell, alienate, or commit any of our gold reserves by the Secretary of the Treasury. I have already introduced legislation to this effect. My bill would prohibit the sale, alienation, or commitment of gold by the Secretary of the Treasury without prior approval by act of Congress. This is another area where the peoples' Representatives in Congress should have the right to oversee any action taken. If my colleague from Texas is, in fact, concerned over the abdication by Congress of its proper responsibilities, then I call upon him to join me as a cosponsor of this legislation. I have here a copy of my bill together with a "Dear Colleague" letter I circulated in September calling for support of the bill and ask that they be incorporated in the RECORD at this point:

H.R. 16594

A bill to prohibit the sale, alienation, or commitment of gold by the Secretary of the Treasury without prior approval by Act of Congress

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 3699 of the Revised Statutes (31 U.S.C. 733), section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a (a)), or any other provision of law, or any rule, regulation or authority of any such law, the Secretary of the Treasury may not sell, alienate, or commit gold without prior, specific approval by Act of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 17, 1974.

DEAR COLLEAGUE: Last week I introduced legislation to prohibit the sale, alienation, or commitment of gold by the Secretary of the Treasury without prior approval by Act of Congress.

The Secretary of the Treasury has very broad outstanding authority to dispose of our gold. Current law provides that ". . . he may sell gold in any amount at home or abroad, in such manner and at such rates and upon such terms and conditions as he may deem most advantageous to the public interest . . ." I believe that the oversight authority provided by my bill properly belongs to the Congress. This is yet another area where the executive branch has unlimited power and where the people's Representatives in Congress should have the right to oversee any action taken.

There is clearly no valid reason for denying Congress the oversight authority provided by my bill. The Secretary of the Treasury was initially granted his broad powers for the purpose of stabilizing the value of our currency at a time when it was redeemable in gold. The gold-reserve requirements for Federal Reserve notes and deposits have been abolished, however, and the reduction of the monetary role of gold, begun in the days of the New Deal, has now been completed.

It is clear that the power to dispose of this national treasure, our gold reserves, must not rest in one individual. I plan to reintroduce this legislation requiring Congressional approval of the sale, alienation, or commitment of our gold on Monday, September 23, and I welcome your support.

IN DEFENSE OF PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

Mr. MCKINNEY. Mr. Speaker, I rise in support of H.R. 16373, the Privacy Act of 1974. This bill is virtually identical to legislation I helped to introduced when I first came to Congress 4 years ago. Since that time I, along with every other citizen in this country, have been alarmed over the consistent erosion and Government abuse of our right to privacy. The Watergate revelations, in which we learned of Government surveillance of innocent citizens, illegal wire-

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tapping, misuse of income tax data, collection of personal dossiers, have helped to create a growing distrust and even fear of Government in the minds of millions of Americans.

To meet these myriad abuses I had hoped Congress would promptly enact a much more comprehensive and inclusive bill than is represented by H.R. 16373. The aim of this legislation is to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies. However, I recognize there must be a first step in protecting the personal freedom of privacy and there is no better place to begin than the safeguarding of individual records held by Government agencies.

We have reached the point in our history when we must determine whether we are to be a people who controls their Government or a Government that controls its people. By passage of this legislation we are insuring that it is, indeed, the people who control their Government, for this bill, in a sense, gives a conscience to our Government computers and tells our citizens that they are indeed individuals, not mere numbers on a card.

For the first time the American public will be made aware of the existence and characteristics of all personal information systems kept by every Federal agency and each citizen will be able to review and correct his record as compiled by Government agencies, to correct inaccurate or misleading information in the records that can be so damaging. For the first time citizens will be able to control the transfer of personal information about him from one Federal agency to another for nonroutine purposes and no records concerning political and religious beliefs of individuals can be maintained by Federal agencies unless expressly authorized by law or an individual himself. Moreover, the availability of records containing personal information will be limited to agency employees who need access to them in the performance of their duties.

In essence, H.R. 16373 provides a series of basic safeguards for the individual to help remedy the misuse of personal information by the Federal Government and reassert the fundamental right of personal privacy of all Americans.

Mr. Speaker, we have a long way to go before our citizens are once again confident that the constitutional guarantee of privacy is not a mere abstraction but is a fundamental facet of our system of Government. The Privacy Act of 1974, as I have said, is a first step to reinstilling confidence that Government does indeed respect the freedoms guaranteed in the Constitution.

I would hope my colleagues in the Congress will not rest complacent upon passage of the legislation before us today. There is much work to be done in the area of privacy and we must address the many other aspects—protection of income tax records; protection of computer files held by private industry; privacy of bank records and credit ratings; surveillance of innocent citizens, to name but a few—to once again insure privacy as an intrinsic individual liberty, inherent to our system of democracy.

FEDERAL ELECTIONS COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 60 minutes.

Mr. FRENZEL. Mr. Speaker, the Federal Election Campaign Act Amendments of 1974—Public Law 93-443—signed into law just last month by President Ford, is an important milestone in the reform of our system of campaign financing. In the past, probably the most important reason for the failure of campaign finance reform legislation has been the lack of an effective enforcement agency or mechanism. The 1974 law attempts to remedy this problem by providing a vehicle for fair, vigorous, equitable enforcement—a Federal Elections Commission.

The Commission is established to administer, seek to obtain compliance with, and formulate overall policy for the disclosure requirements enacted by the 1971 law, contribution and expenditure limitations, public financing provisions, and other provisions of law which relate to campaign financing.

With the passage of the 1974 act and establishment of the Commission, Congress has made a most important official move to recognize, and to begin to redress, the dangerous lack of public confidence in politics and government at all levels.

The Commission is unique among Federal institutions. Two of the Commissioners are appointed by the President; two are appointed by the Speaker of the House upon the recommendations of the majority and minority leaders of the House; two are appointed by the President pro tempore upon the recommendations of the majority and minority leaders of the Senate. All six voting members must be confirmed by both the House and Senate for 6-year terms. In recognition of the complexity, scope, and importance of the new Commission's work, the law states that "members shall be appointed on the basis of maturity, experience, integrity, impartiality and good judgment."

The effectiveness of the new law will be dependent on the ability of the Commission to oversee and enforce the act's intricate provisions and maintain its own integrity, independence, and impartiality in dealing with sensitive issues.

Both the Congress and the President are presently contemplating their choices of nominees for these crucial positions. To aid this process, it may be helpful to list some of the vast array of responsibilities and powers vested in the Federal Elections Commission and to review some of the regulatory decisions required immediately. The following is a summary of the major duties and powers of the Commission, categorized by function, while, while not all-inclusive, will indicate their range and complexity.

GENERAL RESPONSIBILITIES

After being nominated, the Commissioners-designate will be subjected to confirmation hearings. They will be expected to display knowledge of the law, a grasp for the failings of the old system, and a willingness to devote long hours to assuring the smooth functioning of the Commission.

Upon final appointment, the Commissioners will need to find a office/headquarters. There will be countless budgeting, equipment, and hardware decisions. The Commissioners will have to appoint a staff director, general counsel and other members of the staff. Skillful personnel selection is essential if the Commission is to meet its varied responsibilities. Considerable administrative skill will be needed at this stage. A few wrong decisions might seriously impair the future operation of the Commission.

The Commissioners must develop written rules for the conduct of the Commission's activities. These rules will provide guidelines for the staff and future Commission decisions.

The Commissioners will be responsible for formulating overall, general policy for the 1971 act—containing disclosure provisions—the criminal code sections relating to campaign financing—contribution and expenditures limitation and so forth—and the Presidential Election Campaign Fund Act—public financing provisions.

Another important initial step will be to determine the ability of the Commission to utilize the resources of other Government agencies such as the General Accounting Office and Library of Congress. These agencies could be extremely helpful to the Commission in administering and enforcement of the law.

The 1974 act is unique in that it gives the Congress power to veto the rules and regulations of the Commission before they go into effect—that is within 30 legislative days. All rules and regulations proposed by the Commission must be submitted to the appropriate committee or committees of Congress with a detailed explanation and justification. Since it will be at least 30 legislative days before they are approved—over twice as long if they are vetoed—the Commission must submit its proposed regulations long in advance of the first primaries in 1976—probably by around September of 1975. In the interim—since candidates will undoubtedly begin campaigning for the presidency early in 1975 and some provisions of the act will have immediate ramifications—the Commission will have to give considerable guidance to candidates and committees.

The Commissioners will be responsible for drawing up all budget requests and submitting them to both the Executive and Congress.

The Commission is required to report to the President by March 31 of each year. This statement must contain a detailed summary of the Commission's activities, together with recommendations for legislation and other actions.

Another important general responsibility is to assure that all interested and affected parties are informed about their duties and responsibilities under the act. The new law is often technical, complicated, and often imprecise. Penalties for

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an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $2,265 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress, or (B) to which the rate "$43,035" applies, shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of either of the following: (i) an annual rate of compensation which is a multiple of $151 which is nearest to, but less than, the annual rate for such level V, or (ii) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $1,661 less than such annual rate for Members of Congress.

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,140" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended (as provided in section 7(a) of the Order of the President pro tempore of October 4, 1973) shall be deemed to refer to the figure "$1,057".

(b) (1) The maximum annual rate of compensation of "$43,890" appearing in such section (as provided in section 7(b) of such Order of October 4, 1973) is further increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151, and shall be deemed to refer to the figure "$46,206".

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying a position to which such rate applies (A) shall not be paid at any time at an annual rate exceeding $35,938 as long as the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, is less than $39,000, (B) if the annual rate for such level V is increased to $39,000 or more but less than $42,000, shall not be paid at any time at an annual rate exceeding the lesser of (i) a rate that is a multiple of $151 which is nearest to, but less than, the annual rate for such level V, or (ii) $41,072, and (C) if the annual rate for such level IV is increased to $42,000 or more, shall not be paid at an annual rate in excess of either of the following: (i) an annual rate which is a multiple of $151 which is nearest to, but less than, the annual rate for such level V, or (ii) an annual rate which is nearest to, but less than, $1,057 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress.

NOTIFYING DISBURSING OFFICER OF INCREASES

SEC. 8. In order for an employee to be paid in an increase in the annual rate of his compensation as the result of an increase in the maximum annual rate of compenstion for his position authorized under this Order, the individual designated by section 4, 5, or 6 to authorize an incerased rate of compensation for that employee shall notify the disbursing office of the Senate in writing that he authorizes an increase in such rate for that employee and the date on which that increase is to be effective.

LEGISLATIVE BRANCH APPROPRIATION ACT, 1975, RATE INCREASES

SEC. 9. (a) Except as provided in this section, no provision of this Order supersedes paragraph 4 of "Administrative Provisions" under the heading "SENATE" in the Legislative Branch Appropriation Act, 1975.

(b) An individual occupying a position for which that paragraph 4 prescribes a specific annual rate of compenastion shall be paid that annual rate until such time as the annual rate of basic pay for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code, is increased to an annual rate which will result in authorizing an annual rate of compensation to be paid such an individual under this Order which is higher than the annual rate authorized under that paragraph 4. After such time, any such individual shall be paid in accordance with this Order.

(c) (1) An individual occupying a position for which that paragraph 4 prescribes a maximum annual rate in excess of the annual rate for positions in such level V in effect immediately prior to October 1, 1974, may be paid at the maximum rate authorized by that paragraph 4 or any annual rate which is a multiple of $151, except that if the maximum annual rate to be paid is in excess of $36,693, the annual rate paid shall be a multiple of $285. After such time as the annual rate of basic pay for positions in such level V is increased to an annual rate which will result in authorizing an annual rate of compensation to be paid such an individual under this Order which is higher than the annual rate authorized for that individual under that paragraph 4, such individual shall be paid in accordance with this Order.

(2) An individual occupying a position for which that paragraph 4 prescribes a maximum annual rate of compensation less than the annual rate for positions in such level V in effect immediately prior to October 1, 1974, shall be paid in accordance with sections 1–8 of this Order.

EFFECTIVE DATE

SEC. 10. Sections 1–9 of this Order are effective October 1, 1974.

JAMES O. EASTLAND,
President pro tempore.

SUPPORT FOR SENATOR ERVIN'S PRIVACY BILL, S. 3418

Mr. HUGH SCOTT. Mr. President, after watching the systematic attempt to destroy the credibility and integrity of Nelson Rockefeller, I can see why more and more people shy away from public service. The loss of privacy and individual dignity associated with such an undertaking is often too great for average citizens to endure. Constitutional rights of privacy are closer to being lost now than at any time in the last 200 years, and something must be done.

Some Members of Congress recognized this threat to our privacy and have sponsored bills to curb the information-sharing activities of Government agencies and further to allow citizens an opportunity to appeal inappropriate actions of such agencies.

Speaking as one Senator, I intend to support Senator ERVIN's privacy bill, S. 3418. This proposal, which affects Federal data banks, establishes five new standards:

First. Collect only relevant personal information and inform the individual which data is required, which data is voluntary, why it is needed and under what authority.

Second. Maintain and disseminate only timely data, keep track of outside access to the data, establish managerial and physical security.

Third. Announce the nature of each data bank maintained.

Fourth. Grant the individual access to inspect his record and tell each person where the data came from and how it is used.

Fifth. Reinvestigate information challenged by an individual, then correct the record or amplify it to include the person's version, and grant a hearing to resolve existing disputes on data.

Of course, when the bill comes up for floor debate, I will reserve my right to support or oppose amendments which are offered, but I will not withdraw my support for a strong and comprehensive approach to the protection of individual privacy. As we come closer to our bicentennial observance, privacy is one right, not a privilege, which must be kept inviolate.

BILINGUAL EDUCATION

Mr. MONTOYA. Mr. President, on September 27 the Washington Post published a column by Stephen S. Rosenfeld concerning bilingual education. On September 30 the Honorable WILLIAM A. STEIGER asked that Mr. Rosenfeld's column be printed in the CONGRESSIONAL RECORD, in an effort to encourage further discussion and debate. The column also produced a very large number of letters to the editor of the Post, some of which were printed on October 10 and inserted into the RECORD by my distinguished colleague Senator FLOYD HASKELL.

Because of my own concern over the issues raised by Mr. Rosenfeld, I wrote a guest column for the Washington Post which was published on October 22. I attempted to clarify some of the points raised by Mr. Rosenfeld and others, and to correct some of the misunderstanding of fact concerning congressional action.

Finally, Mr. Rosenfeld published a second column on this subject in which he very graciously expressed his thanks to those critics who had "broadened his understanding" of what bilingual education is intended to do.

Response to my own article was immediate and in most cases enthusiastic. It is clear that there is deep interest in this subject and deep concern over the basic concepts which this discussion has brought to the surface.

Because I believe that this kind of three-way debate between a popular and sensitive columnist, legislators in both the House and the Senate, and the public, is very valuable, Mr. President, I ask unanimous consent that Mr. Rosenfeld's second column, my own guest column, and several of the most pertinent letters I have received be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONTOYA. Mr. President, I think it is especially interesting to note that those who are most enthusiastic about bilingual and bicultural education programs are either students who have themselves struggled with this problem or teachers who have worked with minority language children and have discovered the depth of the need and the value of the bilingual teaching effort.

Finally, Mr. President, I hope that this discussion will result in further and more thoughtful examination of the importance of every one of our various ethnic, racial, and religious groups in the creation of a multicultural America.

I am certain that as we enter the bicentennial years just ahead of us we are all going to be looking with better understanding at our history and at the many different kinds of people who were

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a part of that history. As we do that, I hope we will all begin to recognize that our culture and language is already multicultural, with ideas and ways of doing things which came to us from many different countries and which have been adopted into our own unique American lifestyle. Sauerkraut, pizza, tortillas, and Roquefort are part of our language as well as our diet—and every American can appreciate the spice and variety they have added to our diet as well as our language, for instance.

Our majority language is not really English, of course, as any Englishman can tell us. It is American, and it includes many words and phrases which have come to us from countries all over the world. A very large number of our place-names and words are Indian—and that part of our language and life did not come to this continent to join us—we came to join them!

I would agree with Mr. Rosenfeld that our variety of ethnic, racial, and religious groups cause tensions and stresses and problems. They always have. But the astounding achievements we have made as a people may be due, at least partially, to those very tensions and the effort we have been forced to make in adjusting to more than one kind of people and more than one culture and language group.

We live in a multicultural and multilingual world which becomes smaller and closer and more full of tension every day. We must learn to live together on this planet as human beings who respect ourselves and others. We are indeed, as has been suggested, a "great rehearsal" for the kind of international understanding and cooperation which is increasingly important.

It is perhaps a long step from a good bilingual/bicultural program in a first grade class in a little town in New Mexico to an international agreement about world problems, of course. But I think a very good argument can be made for the idea that our ability to succeed in that little schoolroom will be helpful and set a good example for our larger efforts in the world.

I realize we cannot accomplish all the goals of better bilingual/bicultural education overnight. As has happened so often in our past, these programs are evidence of our recognition of a problem, however—and a first step in providing solutions.

I am hopeful that the discussion which has been engendered by this debate will result in a broader understanding of not only the needs of our minority language children, but also of the great strength of our multicultural heritage.

[From the Washington Post, Sept. 30, 1974]

EXHIBIT 1

A SECOND LOOK AT BILINGUALISM

(By Stephen S. Rosenfeld)

I am indebted to my critics for broadening my understanding of bilingualism—teaching in English and in the "home language," usually Spanish, in the public schools. The issue was discussed in this space on Sept. 27. Nothing I've ever written has drawn a larger response—about four to one against, by the way.

I think I understand better now that bilingualism is a program devised to meet a social and educational crisis, a situation in which a great many kids arriving in school speaking, say, Spanish fall behind at once, drop out and thereafter get a raw deal. Mexican-Americans are the key group here but Puerto Ricans and American Indians are also importantly affected.

Bilingualism also serves, I understand better, to redress the sense of those many Americans who speak English poorly or not at all, that their culture—a central element in personal identity—is not respected by the American majority and that their Americanism is somehow suspect.

Perhaps there is nothing more to be said about a program which promises so much to so many. But I think there is more.

First of all, can bilingualism reasonably be expected to carry the educational and social burdens which its sponsors have loaded upon it? The claim is made that a child educated first in the home language will find it easier to learn English, and to learn other subjects in English. But none of its supporters contend that this has been demonstrated other than in a small number of model school programs. It does not seem to me unreasonable, furthermore, to be skeptical about a proposal which puts so much weight on changing the method of instruction, since method is only one factor affecting a child's education.

Some argue in effect that bilingualism is a kind of consolation prize for kids who start school and life with heavy handicaps: "at least let them develop proficiency in the home language and pride in the home culture." But in that case it should not be sold as a catch-up. I can think of no crueler trick than a bilingual program which promises catch-up but leaves kids unprepared for society's rigors in two languages. Supporters of bilingualism should be more interested than any one else in making this point.

If it were up to me to resolve this particular issue, I would proceed full steam ahead on bilingualism, but I would tone down the promises made in its name and I would keep looking hard to see how the programs go and whether other programs need to be carried forward at the same time.

For reasons that no doubt reflect on me as well as my critics, I was startled to be called a "cultural fascist" and the like for expressing the hope that all American kids will learn English and have a fair chance at the good things in American life. Thereby to be accused of favoring "homogenized Americans" and "bland uniformity" set me to wondering about the ambivalences in American society; we want ethnic pride and conventional success and are uncertain whether the former is help or hindrance to the latter or whether the two have any real connection at all.

What is certain is that Americans of European stock have a very different view of the matter—a much more confident view based on their own experience—than do Mexican-Americans, Puerto Ricans and Indians. These Americans, far from being "immigrants" who chose to join this society, became Americans involuntarily by being militarily taken over by the expanding United States. They have not been "melted" or acculturated in the "melting pot" which absorbed Europeans. Rather, they have often gotten the worst of both worlds, their home culture degraded and their assimilation denied.

But, I still ask, where does this leave America? It is all very well for Americans to "recognize our multicultural heritage" but it does not signify "fear of diversity" or, I would contend, "latent bias" to express concern about how the different ethnic, racial and religious groups which compose this country relate to each other. Observers of the American scene at least since de Toqueville have noted these stresses and have pondered how to give each group its cultural due while ensuring that some larger "national" interest be assured.

Certainly it is fair to ask what role the public school system, perhaps the principal "cultural" institution in American life, should be expected to play in sorting out this generation's, or this decade's, answer to that fundamental, continuing question. Our "diverse parts" deserve respect but how should it be accorded? Yes, "jingoism," "xenophobia" and "cultural chauvinism" are aspects—baleful aspects—of the American scene. But not everyone who expresses a longing for Americans, get along better with one another need be charged with them.

BILINGUAL EDUCATION—TAKING EXCEPTION

(By Senator JOSEPH M. MONTOYA)

A recent column in *The Washington Post* raised the frightening prospect of a divisive ethnicity being developed and fostered by Congress through passage of a "new" program for bilingual education. Stephen Rosenfeld expressed his "apprehension" at the possibility that our "melting pot" schools would no longer be able to Americanize immigrant children in what he called the "traditional" American way. He reported that the taxpayer was being asked to pay $170 million a year for this "extremely disturbing" new kind of education through legislation which he said had been enacted "without any public challenge" and with "no one paying heed."

It is hard to imagine a statement founded less on fact and more on fright. However, since it is always difficult to get coverage for the education problems of minority children, I welcome Mr. Rosenfeld's invitation to debate, and hasten to do what I can to correct the record.

First, let us be clear about what Congress did. The legislation passed this year was not new, but was simply an amendment to the Bilingual Education Act of 1968, written and introduced first in 1967 by Senator Ralph Yarborough and me. This year, that legislation, Title VII of the Elementary and Secondary Education Act, was amended in bills introduced by Senator Kennedy, Senator Cranston and me. The changes made will provide clearer definitions, better administration, an increase in funding to cover teacher-training, and better coordination between State and Federal programs. The $170 million mentioned by Mr. Rosenfeld is an authorization, not an appropriation, and *is for the year 1978, not this year.* The authorization for this year is $135 million, but only $70 million has been requested for appropriation. That will provide for only 284 programs across the nation—26 less than were funded last year.

Because the Federal Government has never provided for more than two percent of the children who need this special kind of education, however, the Federal program is really irrelevant to the debate which Mr. Rosenfeld's column raises. The controversy, it seems to me, centers on two concepts: First, an understanding of what bilingual and bicultural education is, and, second, an understanding of what we want America to be.

In order to understand bilingual/bicultural education, it is necessary to work with reality, not myth. The reality is between five and seven million children who are poor and come to school speaking a language other than English. They have historically been considered "marginal" children—barely worth educating, just as marginal products are barely worth producing. They live in barrios and ghettos, or on reservations, and they have drop-out rates as high as fifty or sixty percent. When the National Education Association held its first national conference to discuss this problem in 1966, educators urged a real commitment toward building

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S 3418

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Resolution 224, a resolution designating January of each year as "March of Dimes Birth Defects Prevention Month."

SENATE JOINT RESOLUTION 254

At the request of Mr. MONTOYA, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Joint Resolution 254, authorizing the Administrator of the National Aeronautics and Space Administration to make a grant for the construction of facilities for the International Space Hall of Fame.

SENATE RESOLUTION 435—ORIGINAL RESOLUTION REPORTED FROM THE COMMITTEE ON RULES AND ADMINISTRATION AUTHORIZING ADDITIONAL EXPENDITURES

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 435

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $30,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 317, Ninety-third Congress, agreed to May 7, 1974.

AMENDMENTS SUBMITTED FOR PRINTING

CONSUMER CONTROVERSIES RESOLUTION ACT—S. 2928

AMENDMENT NO. 1990

(Ordered to be printed and to lie on the table.)

Mr. BURDICK submitted an amendment intended to be proposed by him to the bill (S. 2928) to establish national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes.

HOME HEALTH SERVICES UNDER SOCIAL SECURITY—S. 2690

AMENDMENT NO. 1991

(Ordered to be printed and referred to the Committee on Finance.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (S. 2690) to amend title XVIII of the Social Security Act to liberalize the conditions under which post-hospital home health services may be provided under part A thereof, and home health services may be provided under part B thereof.

FEDERAL PRIVACY BOARD ACT—S. 3418

AMENDMENT NO. 1992

(Ordered to be printed and to lie on the table.)

NET WORTH DISCLOSURE AMENDMENT

Mr. WEICKER. Mr. President, when the Senate tomorrow brings up for consideration the Federal Privacy Board Act, S. 3418, I intend to offer an amendment to provide for full disclosure of net worth by high-ranking public officials in the executive and congressional branches of the U.S. Government. The amendment is the same as the Net Worth Disclosure Act, S. 4059, which I introduced on September 30 of this year.

I strongly believe that the public has a right to know the financial interests of those who guide their Government. The disclosure of financial worth and interests by policymakers is one step toward strengthening the public's trust. I feel the Senate, for example, has an unprecedented opportunity to dispel public cynicism by adhering to the same standards of public disclosure that it has asked of Vice President nominee Nelson Rockefeller.

The net worth disclosure amendment would require that the President, Vice President, Members of the Congress, and all employees of the executive and legislative branches earning in excess of $30,000 a year, file each February 15 a net worth statement of assets and liabilities over $1,500 held alone or jointly within the family during the previous calendar year. Asset valuation would be based on fair market value as of December 30 of the disclosure year.

This amendment is similar to net worth disclosure provisions in title IV of the Federal Election Campaign Act Amendments of 1974, S. 3044, as passed by the Senate earlier this year. Unfortunately, these important provisions were dropped in conference.

Mr. President, I ask unanimous consent that the text of the amendment incorporating the Net Worth Disclosure Act, be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1992

On page 54, line 8, strike out "This Act" and insert in lieu thereof 'Titles II and III of this Act".

On page 54, line 14, strike out "this Act" and insert in lieu thereof "titles I, II, and III of this Act".

On page 54, immediately below line 14, insert the following new title:

TITLE IV—FINANCIAL DISCLOSURE

SEC. 401. This title may be cited as the "Net Work Disclosure Act".

SEC. 402. (a) Each individual referred to in subsection (b) shall file annually with the Comptroller General of the United States a full and complete statement of net worth to consist of:

(1) A list of the identity and value of each asset held by him, or jointly by him and his spouse or by him and his child or children, and which has a fair market value in excess of $1,500 as of the end of the calendar year prior to that in which he is required to file a report under this Act.

(2) A list of the identity and amount of each liability owed by him, or jointly by him and his spouse or by him and his child or children, and which is in excess of $1,500 as of the end of the calendar year prior to that in which he is required to file a report under this Act.

(b) The provisions of this Act apply to the President, the Vice President, each Member of the Senate, each Member of the House of Representatives (including Delegates and the Resident Commissioner from Puerto Rico), and each officer and employee of the United States within the executive and legislative branches of Government receiving compensation at an annual rate in excess of $30,000.

(c) Reports required by this Act shall be in such form and shall contain such information in order to meet the provisions of this Act as the Comptroller General may prescribe. All reports filed under this Act shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee.

SEC. 403. Each person to whom this Act applies on January 1 of any year shall file the report required by this on or before February 15 of that year. Each person to whom this Act first applies during a year after January 1 of that year shall file the report required by this Act on or before the forty-fifth day after this Act first applies to him during that year.

SEC. 404. Any person who knowingly and willfully fails to file a report required to be filed under this Act, or who knowingly and willfully files a false report required to be filed under this Act, shall be fined not more than $2,000, or imprisoned for not more than two years, or both.

SEC. 405. This title shall become effective on January 1, 1975.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1914

At the request of Mr. PERCY, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of amendment No. 1914, concerning abuses of the social security number, intended to be proposed to S. 3418, a bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes.

AMENDMENT NO. 1932

At the request of Mr. STEVENSON, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of amendment No. 1932, intended to be proposed to the bill (H. R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

NOTICE OF HEARINGS ON S. 1728—WAR CLAIMS ACT AMENDMENTS

Mr. BURDICK. Mr. President, I wish to announce that a hearing will be held on December 3, 1974, in room 6202, Dirksen Senate Office Building, commencing at 10 a.m., for the consideration of S. 1728—the War Claims Act amendments, by an ad hoc subcommittee consisting of Senators BAYH, FONG, and myself, as chairman.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with William P. Westphal, Chief Counsel of the Subcommittee on Improvements in Judicial Machinery, 6306 Dirksen Senate Office Building, Washington, D.C., 224-3618.

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ADDITIONAL STATEMENTS

CLEANUP OF A LAKE

Mr. McGEE. Mr. President, a major problem in this Nation is the pollution of our lakes and streams. Not only does pollution of our water supplies create unnecessary health hazards for our citizens, but it also denies to us a food source at a time when world food problems are mounting.

In Wyoming, a group of concerned and dedicated people have taken matters into their own hands. They have brought a polluted lake back to a healthful and productive state. Known as Lake Viva Naughton, the body of water is located 15 miles north of Kemmerer in southwest Wyoming.

Lake Viva Naughton was nearly dead in 1960. However, the once popular fishing site was restored through the cooperative efforts of the Lincoln County Conservatio nDistrict, the resource conservation and development program of the Soil Conservation Service, Utah Power & Light Co., and residents of the Kemmerer area, all working to keep the lake in service.

Mr. President, the story of this cleanup of Lake Viva Naughton is told by Richard L. Thompson, R.C. & D. coordinator for the Soil Conservation Service in Kemmerer. This story is a salute and tribute to the Federal Government and local residents working hand-in-hand to solve a problem.

I ask unanimous consent that the article entitled, "Clean-up of a Lake," appearing in the June 1974 issue of Soil Conservation, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLEAN-UP OF A LAKE

(By Richard L. Thompson)

Lake Viva Naughton, about 15 miles north of Kemmerer in southwest Wyoming, has been both a boon to fishermen and a headache to nearby ranchers. Now, thanks to community cooperation, camping and ranching can be good neighbors.

One reason for this turnabout was the help provided by members of the Western Wyoming Resource Conservation and Development Project (RC&D) in the area.

Lake Naughton is on the Hams Fork River which runs through the small city of Kemmerer. In 1941, Kemmerer built a dam across Hams Fork River, creating a 100-acre lake for municipal water storage. It was open to everyone for fishing and remained open until 1960 when it was closed due to water pollution and a general degradation of the nearby area.

In 1962, the Utah Power & Light Company constructed a much larger dam across the Hams Fork River a mile ahove the city dam. This created the new 1,458-acre Lake Viva Naughton. It was used for water storage and fishing also.

Lake Viva Naughton's reputation for yielding "big ones" spread, and fishermen flocked into the area. But, once again, pollution became a serious problem.

Local ranchers lost patience—along with thousands of dollars—when fishermen drove cars, trucks, and campers through their grain and hay fields. Because there were few camping facilities, visitors stopped for the night under the willows, along the lakeshore, or at any wide spot in the access road. And when they left for home, garbarge and other refuse was strewn around the once-beautiful river and lakeshore.

The ranchers had only one choice left to protect their land; they fenced off a major part of the Hams Fork River shoreline. At the same time. Utah Power and Light threatened to close the large lake to visitors because of pollution problems.

The city of Kemmerer, Utah Power & Light and some of the ranchers considered two possible ways to rejuvenate the lake. One was to develop a public recreation area administered by the community; the other was to look for a reliable concessionaire.

The first idea was tried, hut problems arose over which community group should administer the lake area.

Next, two Wyoming residents proposed that they operate the Viva Naughton Marina concession. The two men promised to save the lakeshore and develop the lake to full recreation use—if the community helped them overcome pollution problems.

The RC&D and the Lincoln County Conservation District provided conservation and land use planning assistance. Soil Conservation Service specialists and field office personnel surveyed area soils, revised a number of separate conservation plans of landowners, incorporated the ideas of local people into plans for the marina, and drew up an area-wide conservation plan.

RC&D people also provided help on standard designs for huildings, boat ramps, and restroom facilities. And the Wyoming Game and Fish Department stocked the lake with 110,000 rainbow trout fingerlings.

In the spring of 1973, construction began on the marina. A well was dug, a complete sewage and garbage system was set up, and the entire area was fenced to keep out litterbugs. A cafe, showers, and other amenities were also completed.

In the first year, some 12,000 visitors have used the marina and camping facilities. As many as 500 campers remain at the lake overnight. Future plans call for A-frame summer houses to be built and rented, and an expansion of the lake itself.

The operation has boosted Kemmerer's economy, through increased sales of fishing gear, groceries, and other supplies. And, while a fee is charged to use marina facilities, campers seem to feel it's more than worth it Their problem lake is now a popular recreation spot.

THE CONFIRMATION OF NELSON A. ROCKEFELLER AS VICE PRESIDENT OF THE UNITED STATES

Mr. PERCY. Mr. President, the confirmation of Vice President-designate Nelson A. Rockefellcr is the most important business pending before Congress. Within the bounds of the responsibility of the committees charged with reviewing the nomination, and the responsibility of each Member of Congress to review the testimony gathered by these committees, the nomination should be considered with dispatch.

Based on the facts before us today, and based also on personal knowledge of his life and work for a period of a quarter century, I intend to vote for the confirmation of Governor Rockefeller to serve as the 41st Vice President of the United States. In my judgment, he possesses the qualities of leadership and expertise which we urgently need in America today. In considering a nominee for Vice President, one question stands out as most relevant: Does the nominee have the ability and experience to serve as President if for any reason he should have to assume that office? I answered this in the affirmative when I strongly supported him for the Presidency in 1968.

In the case of Governor Rockefeller the question can be answered even more in the affirmative today. In my judgment he now is clearly one of the best qualified people in America to hold high national office.

We are all familiar with Governor Rockefeller's long and distinguished record of public service. Over the past 30 years, his service in various public capacities has given him outstanding experience in domestic and international affairs. He has served five of our last six Presidents. He has served in the Departments of State, and Health, Education, and Welfare. And, most importantly, he served the people of New York as Governor for 15 years. Throughout his career, he demonstrated a rare talent for leadership. That, I believe, is Rockefeller's most outstanding quality.

There exists an urgent need for proven leadership in America today. Governor Rockefeller can significantly help meet this need.

I believe also that government at all levels is only as good as the people who serve it. Nelson Rockefeller has shown that he not only possesses the qualities of expcrience and expertise that bring distinction to public service, but that he is able to attract people to Govrenment who possess the same qualities. As Vice President, his performance would be augmented by the people he would draw to Government service.

The Senate Rules and Administration Committee recently completed extensive hearings on the Rockefeller nomination. In those hearings, legitimate questions were raised about Governor Rockefeller's judgment on two points—first, the numerous financial gifts which he gave to his associates, and second, the financial backing by his brother, Laurance, of a campaign biography critical of Arthur Goldberg. On both counts, I believe Governor Rockefeller has satisfactorily answered those questions raised by the committee. I for one am convinced the gifts were given out of friendship with no intention of affecting public policy. He candidly stated that his family's participation in the publication of the Goldberg book was a mistake, and he has apologized to Mr. Goldberg.

The members and staff of the Rules Committee should be commended for their fairness and attention to detail in considering the Rockefeller nomination. At the same time, Governor Rockefeller deserves praise for his candor in addressing the committee's questions. Certainly the hearings before the House Judiciary Committee, which begin tomorrow, should be conducted in the same spirit.

Mr. President, Governor Rockefeller was nominated by President Ford as Vice-President-designate 3 months ago today. We need a Vice President. President Ford has urged Congress to confirm Governor Rockefeller as soon as possible. The American people now deserve a swift resolution of this matter. A month ago my distinguished Republican colleague from Virginia reached the conclusion that he would vote against the pending nomination. I am now convinced that the Republican Senator from Illinois can vote in good conscience and with great enthusiasm for the nomi-

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...And the Right to Privacy

MORE THAN ONE basic question of federal information policy will be before Congress this week as the Senate and House take up S. 3418 and H.R. 16373. These are the so-called "privacy bills" which would set rules to govern the multitude of federal files on individuals and give citizens far more control over what information about them is collected by the government and how that personal data is used.

While S. 3418 is by far the broader bill, both measures would inject a new sensitivity to individual rights into all of the record-keeping practices of the entire federal establishment. As with any legislation of such enormous scope, there are substantial disagreements on some significant points. Those disputes should not, however, be allowed to obscure the important and encouraging fact that, after years of work, an impressive array of legislators, administrators and citizen experts have reached general accord on several basic principles to govern federal data banks.

These fair information practices, incorporated in both bills, assert that there should be no record-keeping systems whose existence is a secret; that personal information in all files should be accurate, complete, relevant and up-to-date (though there is some argument about definitions of those terms); that individuals should be able to review and correct almost all federal files about themselves; that information gathered for one purpose should not be used for another without the individual's consent; and that the security and confidentiality of personal files should be assured. These may seem to be elementary rules, but their adoption as federal policy would be an historic advance.

There are two major areas of controversy. The first concerns what exceptions to the general rules ought to be made. Obviously there are some records about individuals (such as the files of current criminal investigations) that the subject should not be allowed to inspect. But such exceptions should be narrowly drawn because those files are precisely the type which can be most easily misused in ways that damage citizens. The Senate bill provides relatively narrow exemptions to meet the needs of national defense, foreign policy and law enforcement. The House bill sets forth broader exceptions, including a near-total exemption for the CIA and Secret Service. This approach seems unwise because exempting agencies rather than types of records is likely to encourage more requests for special treatment.

One particular area of dispute, especially in the House, is whether individuals should be allowed to review information given in confidence in connection with federal employment, promotion and security investigations. The challenge here is to strike a balance between two competing interests: the individual's right to assurance of fair treatment, and the government's need to obtain candid assessments of a person's qualifications for a position of trust. Full individual access to confidential reports could create many difficulties. On the other hand, an amendment to be proposed by Rep. John Erlenborn (R-Ill.) would go too far by exempting from disclosure all information gained in confidence. Experience with the Fair Credit Reporting Act, which allows citizens to learn the gist of the information but not the source, suggests that a middle ground can be found.

The second and larger point of controversy is how the new information policies should be put into effect. The House bill relies on citizen initiatives and action by each separate federal agency. The Senate measure, which places far more emphasis on data management, would create a Privacy Protection Commission to investigate problems, monitor federal data policies, and develop government-wide guidelines for carrying out the law. This approach is vehemently opposed by the Ford administration, which claims that enforcement by individual agencies and oversight by the Domestic Council privacy committee will suffice. That might be true if every federal agency had a built-in commitment and sensitivity to privacy concerns. However, experience with other reforms such as civil rights laws and the Environmental Policy Act has shown all too clearly that many agencies, left to themselves, are very slow to change their policies and attitudes. Nor is the existing White House committee a reliable substitute for a permanent oversight agency with a clear, statutory mandate. If Congress really wants federal data bank policies to be reformed, a small but forceful agency, with that as its single mission, is required.

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When the shipments started arriving in large quantity in May, five months of the dry season—the best season to send trucks of food to remote villages—had been lost.

Food began to pile up in ports, in capital cities, and in major distribution centers, but the trucks taking it to the villages that needed it most were immobilized by the rainy season mud.

At the end of June in Dakar, Senegal's capital and major port city, 67,000 metric tons of grain intended for Mali was still on the docks.

It would take four months to move that much grain into Mali because it had to be transported on a single-track railroad that can carry only 18,000 tons of freight a month.

David McAdams, mission director in Senegal for the United States Agency for International Development [USAID] defended the port backlog as inevitable.

Even if more shipments had arrived earlier in the year, he said, the railroad could not have transported the grain to Mali because it was tied up with bringing Senegal's peanut harvest to port.

"You can't expect these governments just to ship emergency grain on the railroad," he said. "They depend on the railroad to haul all of their commodities."

McAdams acknowledged that hungry people were beginning to fill the cities and towns by the end of June, even tho all ths relief food wasn't delivered.

"We probably could have gotten it [relief grain] there sooner by more expensive means, such as an airlift, but sometimes you can't justify an extreme expense until you've exhausted all other possibilities," he said.

He was right about the expense of airlifting. When the Niger River ran dry in Juns and the government of Mali could no longer ship relief grain by barge, it had to resort to airlifts to the northern desert cities.

Three U.S. Air Force C–130 Hercules transport planes flew grain from Bamako, Mali's capital, to isolated regions at a cost of $900 a ton. That compares to an estimated $80 a ton it would have cost had the food arrived earlier and had been shipped by barge.

Expensive airlifting, relief agencies and the government of Upper Volta claimed this summer, would not be necessary this year as they were last year because of rapid, efficient stockpiling in remote villages.

The idea of no airlift came as a surprise to Father Lucien Bidot, a French priest directing food distribution in the village of Gorom-Gorom in northern Upper Volta.

Responsible for the well-being of 3,500 farmers and nomadic refugees in the gritty little town slowly being swallowed into ths emptiness of the growing Sahara, Father Bidot had become alarmed by July.

Torrential rains had cut Gorom-Gorom off from relief stocks sitting just 25 miles away for several weeks. He had only enough food for four days when he heard there was to be no airlift.

"We have been waiting for an airlift to get started," Father Bidot said. "Otherwise, I don't know how we will get supplies up here.

"It's up to the government now to decide if it will be needed."

The government of Upper Volta never made the decision, but Albert Baron, chief of USAID for Upper Volta and Niger, ordered people from his staff to go to Gorom-Gorom when we told him Father Bidot's dilemma.

An airlift to the village began after the staff reported back to Baron.

Baron said places like Gorom-Gorom are the exception to the rule this year because most areas are getting food regularly.

While the Niger government in 1973 had a shameful record of corruption and bungling in its part of the relief effort, Baron said, the new military government formed in an April coup was a model of reform.

The new government, he said, was determined to make a success of the relief effort, opening every possible avenue of transport to get food into the country and into the villages.

"We're pretty proud of ourselves," Baron said. "If we hadn't been able to double the evacuation of the ports, there would have been starvation in Niger this year."

Once the U.S. and other donor nations got food into the country, he said, the Niger government shipped it to provincial distribution centers.

"Some places are in a 'truck to mouth' situation," Baron said, "where they are down to one day's supply of food. But I don't think there will be any death by starvation in Niger this year."

Whether people were dying for lack of any or too little food seemed an odd distinction to make in Kao, a village of 2,500 where two to three people a day were dying by early August.

The people of Kao were at the mercy of violent rainstorms that produced overnight raging rivers that tore thru the arid, rolling landscape, slicing apart the roads they watched for food shipments.

There was no food stockpiled in Kao, and little chance of regular relief supplies arriving until the end of the rainy season.

The food was supposed to arrive regularly from Tahoua, a major stockpile center 40 miles south. When a truck of food occasionally managed to break thru the rain-soaked dirt road leading from Tahoua, people consumed the food as soon as it was off the truck.

Parents allowed their children to eat raw milk powder as soon as it was handed to them, unaware that it was a sure way to induce fatal diarrhea.

Maj. John Cellis, commander of a Belgain Army trucking unit responsible for feeding a region as large as France from the Tahoua stockpile, said Kao was by no means the only village in distress.

His unit was ordered back to Belgium Aug. 13, but before they left, the major reflected bitterly on what he had been abis to accomplish:

"Our mission was to constitute stocks in the villages, but it was impossible to reach the people often enough to build one. They ate what we brought immediately.

"We came once more too late. We should have been here in December and January when the roads were good. It would have been possible then.

"Now we are leaving and not one place has got a stockpile."

The major was extremely pessimistic about even irregular food shipments reaching the villages once his unit had left.

Maj. Cellis' fears apparently were well-founded. By September the Niger government announced it was replacing trucks with camel caravans to supply the Tahoua district towns.

A trucking problem of a different sort arose in Chad, the most remote and inaccessible of the Sahelian nations—and the one which relief officials estimate has the most severe food problems.

The U.S. committed 20,000 metric tons of grain to Chad this year, but by the end of the summer only 7,000 tons had gotten into the country.

Shipped overland from Nigerian ports to the city of Maiduguri in Northeastern Nigeria, it was supposed to be carried across the border by truck into Chad.

The problem was that trucking is one of Chad's major industries, and owners of the truck companies hold powerful political sway in government.

Tho Nigerian trucking firms were willing to carry the relief food into Chad at one-half the tonnage rates charged by Chadian firms, the Chad government wouldn't allow the Nigerians into the country.

Unfortunately, the Chadian truckers didn't have enough trucks to handle the immense piles of food that had grown in Maiduguri and had begun to rot under tarpaulin shelters.

When the government finally relented in July and decided to allow Nigerian truckers to carry the food, it was too late. The rainy season had destroyed the road leading from Maiduguri to Chad.

Ethiopia's Wollo province is a place of spectacular emerald mountains and valleys where people in isolated farming villages died by the thousands last year.

There was no way for an airlift to succeed in the region this year when the villages ran out of food again. There was no way after the rainy season began for the food trucks to penetrate the steep, tortuous roads.

The government instead set up relief camps at the most accessible points they could find, hoping that people in trouble could somehow reach them, pick up supplies, and return to their farms.

"There are at least three million Ethiopians living in acute distress right now," said Shimelus Adugna, the nation's director of relief operations.

"We think we have done a good job getting food to most of them, but we know there are places we have not found, that we have not managed to reach. There is little we can do for the people there, unless they somehow manage to find their own way to one of our shelters."

Often when people finally manage to reach a government camp, such as the one in Bati in Wollo province, they are already beyond help. Weakened by hunger, they are bundled into blankets to ward off the cold mountain air, and officials try to wean them back to health so they can return to their farms.

But every day in the camp a few bony forms under the blankets stop moving, and they are wrapped for the last time to be carried out of the grey barracks buildings.

How many people have died like this in Africa this year is impossible to calculate.

Whether they are dying from starvation or malnutrition seems an academic question. The fact is that they are dying because 900,000 tons of food, much of it grown, shipped, and paid for by American taxpayers, did not arrive in time to save them.

Despite promising African harvests this year, officials already know it won't be enough to sustain the 50 million people in Ethiopia and the Sahel next year. The U.S. and other donor nations already have started shipping food for 1975 emergencies.

STRENGTHENING THE PRIVACY ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, yesterday I called attention to an important deficiency in H.R. 16373, which is scheduled for floor consideration this week. It related to absence of clear language requiring the publication of a Directory of Federal Data Banks. I believe there are three additional aspects of the legislation which similarly require strengthening provisions.

NEW RECORD SYSTEMS

Broad support exists for what President Ford has endorsed as "privacy impact statements" on proposed new personal data systems, such as the recently disclosed Fednet plan. There should be considerably more attention to system design and standards than is required in the bill as well as direct notification to

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a clearinghouse organization and Congress. I propose the National Bureau of Standards be given a formal role in the early planning stages of new or major modifications of personal information systems. Once such a technical review has been completed and final plans prepared, full particulars should be transmitted to the General Services Administration and Congress. Because of the procurement and management policy mission of GSA, this will be a useful second-line review within the executive branch. Congress can act through its oversight machinery, authorization or appropriations processes where clarifications or objections to new or changes in systems are proposed.

HANDLING PUBLIC INQUIRIES AND COMPLAINTS

Contained in all measures I have introduced to protect individual records and require open-access practices, is the establishment of a board to regulate, monitor, and hear public grievances. H.R. 16373 contains no privacy agency and leaves individuals largely adrift if they need assistance or wish to protest inability to exercise access or other rights to their personal records. The Senate bill does have a board exercising this function which I favor.

I have looked into the Office of Consumer Affairs possible role as an "ombudsman" for privacy complaints as Mrs. Knauer's office serves in the consumer protection area. Aside from good work in developing and circulating a code of fair information practices for retail stores and other businesses, the Office of Consumer Affairs is not well equipped with statutory authority, technical competence, or access to operating agencies.

This vacuum must be filled and I am hopeful that a Privacy Commission having these duties will prevail. The legislative history must indicate a public repository for assistance and complaints on compliance with data protection standards.

RESEARCH

Congress has been plagued by lack of information on problems involving technology and practices of State and private personal records systems. No research dimension is called for in the House bill. In the Senate measure a well-formulated research program is provided. We are told that the Domestic Council Committee on Right to Privacy is now doing much of this job. That is fine. But Congress and the American people cannot be expected to rely on a temporary committee operating under the nonstatutory Domestic Council, at the behest of the sitting President, in the purview of regularly exercised executive privilege. While I have a high regard for the committee, the fact is they cannot give Congress assurance that the reports and background documents related to their several studies will be made public.

Mr. Speaker, I bring up these deficiencies, along with the need for clear language authorizing a directory, as constructive suggestions for consideration.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 5 minutes.

[Mr. DULSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

BACKGROUND ON MINISH-WILLIAMS TRANSIT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MINISH).

Mr. MINISH. Mr. Speaker, one of the last remaining items on the congressional agenda before adjournment is the question of Federal assistance to the Nation's mass transit systems.

If we are to make a real impact on the problems of our Nation's urbanized areas and, indeed, the problems of the entire Nation, it is essential that the 93d Congress pass, and the President sign, legislation to provide long range, comprehensive, meaningful mass transit assistance. Fortunately, we have, in S. 386, a vehicle which will enable us to meet this crucial goal.

The conference report on S. 386, now pending before the House Rules Committee, is the product of serious legislative compromise between the House, Senate, and the administration. Although the process by which the conference report was reached is extraordinary, the product is of exceptional quality in that it reflects the interests of numerous concerned groups. This is the real test of the legislative process.

For over three years both the House and the Senate have been considering legislation that would authorize Federal funds to finance the costs of operating transit systems. For 10 years, the Federal Government has participated in funding costs through a program which has met with great success. In 1966, $75 million was obligated, and this has grown to $1.3 billion in 1975.

But, in 1966 State and local governments were subsidizing 22 systems at $200 million and in 1975 this grew to 180 systems at $650 million. There has been great interest, therefore, in legislation that would authorize the Federal Government to participate with State and local governments in the support of operating costs.

The administration, under President Nixon initially was opposed to such a program. However, when, legislation cleared both Houses of Congress late last year, they reversed their position and indicated support for a program of operating assistance under certain specified conditions. I am sure you recognize that legislating in the atmosphere of changing attitudes on the part of the administration is difficult. However, we have been pleased by the positive change and have responded by modifying the legislation to reflect the administration's concerns. Only in this way can a passable and effective program result.

The initial action that led to the development of S. 386 was taken by the House Banking and Currency Committee on April 16, 1973, when it reported H.R. 6452 to the full House.

This bill contained four major provisions:

Authorization of a new program of operating assistance for transit of $400 million a year for fiscal year 1973 and 1974. These funds would be allocated by formula weighted evenly between population, revenues passengers and vehicle miles. As with the capital program, the operating aid would be available on an 80-percent Federal share basis;

Increase in contract authority for the capital grant program of $3 billion;

Increase in Federal share of capital grant program from 66⅔ percent to 80 percent; and

Increase in Federal share for planning funds from 66⅔ percent to 80 percent.

This bill was designed to continue the successful capital grant program of the 1970 act, with an update in funding and an increase in the Federal share. One reason for the capital grant program's success was that it allowed State and local public bodies to apply directly for their funds. In the early development of the program, it was impossible to precisely determine capital needs. Thus, a program of application for projects was developed.

The operating assistance program, however, was a different matter. If application for funds was allowed, the Federal Government in reviewing the applications would find itself involved in decisions affecting fares and service levels as well as wage scales. In order to avoid this, the committee felt it essential to have a separate program for operating assistance and that this separate program be funded by an allocation formula. Testimony from the States, cities, counties, and public transit operators was universally supportive on this point.

Earlier, on March 15, 1973, while considering the 1973 Federal Aid Highway Act, the Senate added, on the floor, a new title III. This title III contained many of the provisions of H.R. 6452, except that it contained no formula for distributing the funds, which were to be allocated according to secretarial discretion.

This unusual action of placing this transit legislation into the 1973 Federal Aid Highway Act was a carryover of developments in 1972 session of Congress. The 1972 Housing and Urban Development Act contained the transit legislation, but in the final days of the session, this bill was denied a rule. The Senate placed then the provision of operating assistance in the 1972 Federal Aid Highway Act. The conference report on this bill was not completed until the final day of the 92d Congress, and the report was not acted upon in the House because of a lack of a quorum. A similar strategy was decided on for the 1973 Federal Aid Highway Act.

On April 19, 1973, the House passed the Federal Aid Highway Act of 1973. This bill contained a title III that provided for $3 billion in new contract authority and increased the Federal share to 80 percent for capital and planning grants. However, no operating assistance was included.

Between April 19 when the House passed the highway bill and July 27 when the House-Senate conference on the Federal Aid Highway Act completed its work, H.R. 6452 was held by the Rules Committee on the grounds that these provisions were contained in the highway bill.

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munity to conserve otherwise wasted resources.

The result was more than expected. During fiscal year 1973–74, a savings of $317,784 was realized by closing doors, using less water and switching off lights when not in use. As a result the university burned 17 percent less coal, cut electricity 6.7 percent, water use 15.7 percent and heating steam 10.6 percent.

The entire Purdue community of officials, students, and employees should be congratulated by all energy conscious individuals.

I ask unanimous consent to have printed in the RECORD at this point, an editorial entitled "Bully for Old Purdue" which appeared in the Indianapolis Star during November 1974.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Indianapolis Star, November 1974]

BULLY FOR OLD PURDUE

Purdue University students and employes have proved that energy conservation is a worthwhile project, no matter whether the energy crisis is real or contrived.

During fiscal 1973–74 these groups saved the university $317,784 because they made a real effort to conserve energy. They closed doors, used less water and switched off lights when not in use. As a result the university burned 17 percent less coal, cut electricity 6.7 percent, water use 15.7 percent and heating steam 10.6 percent.

Such savings have had an immediate practical effect. Without them many employes who have received pay raises would have received less or none at all. It is a money-saving program that is welcome to the taxpayers.

Whether or not the energy crisis is serious, there is no reason to use energy that is not needed. We doubt if anyone went dirty or was too cold because of the conservation measures. And even though there may be ample energy sources available, they should not be wasted. The earth's supply is not infinite.

Purdue's vice-president Frederick R. Ford was so pleased with the energy conservationists that he congratulated them and urged their continued awareness of wasteful practices.

As the old college yell went: "Bully for old Purdue!"

RIGHT TO PRIVACY

Mr. HART. Mr. President, at the recent Western Regional Meeting of the Commercial Law League of America, Mr. Stuart E. Hertzberg, the president of the league and a widely respected Detroit attorney, delivered a forceful and timely address on the need for Congress to protect fully every American citizen's right to privacy.

As Mr. Hertzberg points out:

The best defense of the right to privacy is public awareness.

And he properly concludes:

I would certainly not dispute that modern government needs some information about its citizens to administer certain social programs fairly and effectively. But there must always be restraints against the misuse of information about the private lives of private citizens.

Mr. President, I ask unanimous consent that Mr. Hertzberg's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE INVISIBLE THREADS, A DEFENSE OF PRIVACY

(By Stuart E. Hertzberg)

Thank you. Ladies and gentlemen, officers of the Western Region, board members and guests. This is the fourth regional meeting I have attended as president of the Commercial Law League and the fourth at which an attendance record has been set. For this Western District success we are especially indebted to Chairman Richard Horton and his wife Sheila and to Arrangements Co-Chairmen Lawrence Fleming and William Moroney.

I'm going to talk this morning about what Alexander Solzhenitsyn has described as the "invisible threads" and what Louis D. Brandeis defines as the "most comprehensive of rights, the right most prized by civilized man—the right to be let alone."

In a word, I'm going to talk about privacy.

A quarter century ago, Eric Blair, an Englishman, wrote one of the great modern csassics of negative Utopia. It was "1984" and Blair's pen name, of course, was George Orwell.

You may remember the opening scene. Winston Smith, the non-hero is in his one-room flat. Orwell described the telescreen on the right-hand wall:

"Any sound that Winston made, above the level of a very low whisper, would be picked up by it; moreover, so long as he remained within the field of vision which the metal plaque commanded, he could be seen as well as heard.

"There was of course no way of knowing whether you were being watched at any given moment. How often, or on what system, the Thought Police plugged in on any individual wire was guesswork. It was even conceivable that they watched everybody all the time.

"But at any rate they could plug in your wire whenever they wanted to. You had to live—did live, from habit that became instinct—in the assumption that every sound you made was overheard, and, except in darkness, every movement scrutinized." That is "privacy" in Oceania, Winston Smith's native land, in "1984".

How is it in America in 1974?

In his 1974 State of the Union Message, the President promised a "major initiative" on the matter of privacy and in late February, he announced that he was establishing a top priority committee to provide, in his words, "a personal shield for every American" against invasions of privacy from any source—including the Federal government.

I am disturbed though, by the limited scope of the President's committee on safeguards to privacy. The President's study group is to concentrate on only three problem areas—the collection, storage and use of personal data.

A position on wiretapping is to be deferred until the new Commission for Review of Federal and State Wiretapping Laws reports. That may not be for many months. The work has just started.

But the real starting point was defined nearly 200 years ago in the Bill of Rights. Unfortunately, there are those who apparently consider the Constitution as no longer operational.

Under the Bill of Rights, the Federal government is prohibited from spying on political opponents. But it did.

Under the Bills of Rights, the people are secure from unauthorized searches of their persons, their houses and their papers. But we had a Watergate and a break-in at a doctor's office.

With each violation of the Bill of Rights, your rights are imperiled. When Army personnel are used to spy on peaceful political meetings, your privacy is threatened. When government officials use Internal Revenue Service files to compile an enemies list, again your privacy is diminished.

Beyond these flagrant and publicized violations of the right to privacy, there is a constant and insidious erosion of privacy of progress, as an unavoidable if somewhat unpleasant side effect of our computer culture.

If I were to ask you this morning: "What do you spend on presents for your grandchildren?" or "How many newspapers and magazines do you buy a month?" or, even more personal, "Do you wear artificial dentures?" and "How often do you go to the barbershop or beauty salon?", I would hope you'd tell me to mind my own business.

But every one of those questions was asked recently of retired Americans in a questionnaire sent out by the Census Bureau at the request of the U.S. Department of Health, Education and Welfare.

And I'm sure many of you remember the questions asked in the last regular census; questions which American citizens were required to answer under threat of punishment under Federal criminal laws.

"Do you have a flush toilet? Have you been married more than once? What is your rent? How many bedrooms do you have? What is your monthly electric bill? Did your first marriage end because of death of wife or husband?"

I would certainly not dispute that modern government needs some information about its citizens to administer certain social programs fairly and effectively. But there must always be restraints against the misuse of information about the private lives of private citizens.

Senator Sam Ervin in a discussion on "Computers and Privacy" told a university panel last year that, as chairman of the Senate Subcommittee on Constitutional Rights, he set out to learn how many data banks were being operated by the Federal government.

The Senator said:

"I wrote to fifty Federal agencies asking them just how many data banks they have. So far, we have received information on more than 750 with varying contents, operational guidelines and the like."

"One of the most disturbing aspects of governmental data collection," Sam Ervin warns, "is the use of surreptitious surveillance and intelligence operations to collect information on innocent citizens whose political views and activities are contrary to those of the Administration."

In July of last year, a month after Senator Ervin appeared on that panel at Miami University in Ohio, the Department of Health, Education and Welfare published a report on a study authorized in 1972 by the then HEW Secretary, Elliot Richardson. It is called "Records, Computers and the Rights of Citizens."

The report, some 350 pages, is available from the Superintendent of Documents, Government Printing Office, for $2.00.

I would hope that one of the first things the President's committee, headed by Vice President Ford, will do is spend $2. And then spend some time reading the recommendation of the HEW report.

The report recommends enactment of a Federal "Code of Fair Information Practice" for all automated personal data systems. Noting that "under current law, a person's privacy is poorly protected against arbitrary or abusive recordkeeping practices," the Code "rests on five basic principles."

1. There must be no personal data record-keeping systems whose very existence is secret.

2. There must be a way for an individual to find out what information about him is on record and how it is used.

3. There must be a way for an individual to prevent information about him that was

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obtained for one purpose from being used or made available for other purposes without his consent.

4. There must be a way for an individual to correct or amend a record of identifiable information about him.

5. Any organization creating, maintaining, using or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take precautions to prevent misuse of the data.

It should be noted that the HEW study group was headed by Willis H. Ware, chairman of the Corporate Research staff of the Rand Corporation, and members included management in both government and industry, the social service professions, legislators, lawyers, a labor union official and private citizens.

They have done their job well. But it is only a beginning. Recommendations are not law. I do think that the HEW study offers the basis for a legislative program.

However, protection of the right to privacy goes far beyond the problems of computer technology. As a simple indicator of the scope of the subject, let me read a few listings under "Privacy" in a recent Reader's Guide to Periodical Literature. I do this at the risk of revealing my private sources of research for public speeches.

Under "Privacy," we find: "Assault on Privacy; Drifting Toward 1984; Growing Alarm Over Official Snooping; How the U.S Army Spies on Citizens; Electronic Surveillance of Private Citizens; School Records Can Be an Invasion of Privacy."

There's lots more. And that's good. Strangely, perhaps, the best defense of the right to privacy is public awareness.

Back in 1970, Sam Ervin, who has always been aware of any threat to our basic rights as Americans, said:

We should "bestir all Americans to claim their Constitutional legacy of personal privacy and individual rights and to demand an end to abuses . . . before the light of liberty is extinguished in our land."

It was the President who said:

"A system that fails to respect its citizens' right to privacy fails to respect the citizens themselves."

But the President sees the primary threat as one of technology while neglecting immediate steps his office could take to strengthen citizen rights.

Senator Phil Hart, of Michigan, suggests a program of action, one that can be initiated from the White House.

The Senator believes "the most pressing need is to put an end to domestic political surveillance and intelligence gathering by government agencies. The President could begin that effort by supporting a Senate-passed bill to prohibit military personnel from spying on American citizens.

"The President can order everyone in his Administration to refrain from political spying of any kind. There is absolutely no justification, legal or otherwise, for government to collect intelligence on its political opponents for the purpose of or with the effect of stifling their opposition."

Let me suggest, as Senator Hart has, that the President should immediately order that no wiretapping, bugging or breaking and entering, be carried out without authority of an independent court order.

As the senator has said:

"He should state without equivocation that the label of 'national security' will not be used again to hide or excuse illegal acts. And then he should join Congress in preparing legislation to make those executive orders into law.

"The President must respond to continuing reports that telephone records, bank records and other private business records are being obtained by the government secretly with no legal safeguards—without the protection of a court warrant, or the opportunity for the person involved to raise legal objections to protect his rights. The President, by executive order could and should end that practice and require any federal agency to obtain a subpena for such information.

"For several years, the Administration has opposed a Senate-passed bill to prohibit government employees from being asked about their religious beliefs, their politics and their social lives. The President should support this measure. Such a law would set an example for other employers to follow and free our civil servants from implied threats when that kind of information is sought.

"And finally, the Administration should support stiffer controls on use of criminal justice records.

"These records include arrests as well as convictions. They are sold or given to credit bureaus, banks, insurance companies, employers, and schools. Too many people have been denied advanced schooling, a loan or a job because of inaccurate records or because an arrest record fails to include the fact that charges were later dropped or the person was acquitted.

"And too many people never find out that such records exist and cause their difficulties.

"The answer is a law to prevent private access to all arrest records and require officials to open these records to inspection and correction by those involved. And any criminal justice agency participating in the nationwide criminal information network should be required to update their records."

To single out computer banks—private or governmental, as the root evil could easily divert public attention from the totality of privacy's defense.

There is no safe way to strengthen the Bill of Rights except by giving it once again supremacy over ill-defined Presidential and government powers and over what have been neatly defined as "vague and ubiquitous claims of national security."

The shadow is lengthening.

In another land, where the light of liberty, as we understand it, has been extinguished, these words were written:

"As every man goes through life he fills in a number of forms for the record, each containing a number of questions . . . There are thus hundreds of little threads radiating from every man, millions of threads in all.

"They are not visible, they are not material, but every man is constantly aware of their existence . . . Each man, permanently aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads."

Yes, those are the words of Alexander Solzhenitsyn, from "Cancer Ward."

I see the fabric of our private lives woven from those threads and I fear that we may be careless and unwittingly bow to those who manipulate the threads.

It must not happen here.

Thank you.

HOPE FOR RETARDED NAVAJO CITIZENS

Mr. DOMENICI. Mr. President, on the Navajo Indian Reservation in northwestern New Mexico, hope for retarded Navajo citizens has been born out of the efforts of determined parents, teachers, and community people. The Alchini Be Lchohoo Association for Retarded Citizens, literally translated, the Hope for Children ARC, is the culmination of years of hard work, patience, and perseverance.

In northwestern New Mexico, access to health care facilities is difficult at best. Until recently, access to special education programs and training centers for the mentally retarded and developmentally disabled was impossible. In the establishment of the Hope for Children facility at Coyote Canyon, N. Mex., a corps of dedicated social workers and educators had long perceived the trauma and results of the stress placed on family relationships because of the presence of children or adults with mental or physical handicaps. It was they who provided the technical expertise and assisted in the negotiations with State and tribal governments. Significantly, however, it was a small group of Navajo parents who, intimately familiar with the guilt, the strain, and the physical and economic hardships of educating and training mentally retarded children, provided the impetus.

The development of the Hope for Children ARC exemplifies the innate resourcefulness of community people who are willing to act as they believe. When they could not identify sources of Federal funding, they tapped State resources. Working through the local school system, they gained access to materials, to educational personnel, and to a ready source of technical expertise in the school ssytem's special education department.

Recognizing that there were parents who could share with them a multitude of experiences and information, they established working relationships with the county association for retarded citizens and cosponsored a statewide convention for the New Mexico ARC.

The Hope for Children ARC has been one of those rare endeavors when, through the energies of concerned and active citizens, all immediately available resources are finally brought to bear on a specific problem of mutual concern to Indian and non-Indian communities.

Mr. President, I ask unanimous consent that the article, "An Indian School. An Indian ARC" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN INDIAN SCHOOL . . . AN INDIAN ARC . . . OVERCOME CENTURIES OF TRADITION

If love conquers all, then the Alchini Ba Lchohoo (Hope for Children) ARC on the Navajo reservation in New Mexico is sure to succeed, no matter what.

The school operated by the ARC has twenty students ranging in age from twelve to twenty-one years and has one of the finest vocational programs in the nation, a full academic program and a vital and active Foster Grandparents Program.

Things were not always this prosperous nor was the future always bright for members of the Navajo reservation who had mentally retarded children. Arthur Hood, director of the school, explained that in 1971 it was on the verge of folding. There were little or no founds available, the lights were being turned off, heat wasn't always turned on and the people who were running the facility, as a private corporation, finally just pulled out and left it to the students and their families to figure out how to survive. In October the parents started to hold meetings to ascertain what could be done to save the program.

PARENTS BAND TOGETHER

Eventually things got so bad it was obvious that the whole facility would have to be

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